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Washington, Wednesday, April 15, 1936

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

REVOCATION OF EXECUTIVE ORDER NO. 5791 OF FEBRUARY 2, 1932,
WITHDRAWING PUBLIC LANDS

Colorado

By virtue of and pursuant to the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497, Executive Order No. 5791 of February 2, 1932, withdrawing public lands in T. 10 S., R. 94 W. of the sixth principal meridian, Colorado, pending a resurvey, is hereby revoked.

This order shall become effective upon the date of the official filing of the plat of resurvey of the said township.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,
April 11, 1936.

[No. 7344]

[Filed, April 13, 1936; 2:37 p. m.]

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 48198]

CUSTOMS REGULATIONS AMENDED—HOURS OF BUSINESS

ARTICLE 1445 (A) OF THE CUSTOMS REGULATIONS OF 1931 AMENDED SO AS TO MAKE IT CLEAR THAT STATE LAWS GRANTING PART HOLIDAYS ON SATURDAYS DO NOT EXCUSE CUSTOMS EMPLOYEES FROM RENDERING THE HOURS OF SERVICE PRESCRIBED BY THE ACT OF MARCH 3, 1931, 46 STAT. 1482

To Collectors of Customs and Others Concerned:

Pursuant to Section 161, Revised Statutes, Article 1445 (a) of the Customs Regulations of 1931 is amended to read as follows:

(a) Customs offices shall be open between the hours of 9:00 a. m. and 4:30 p. m. on all days of the year, except Saturdays, Sundays, and national holidays, and on Saturdays from 9:00 a. m. to 1:00 p. m. These hours may be prolonged when the necessities or interests of the public service require it. So far as the transaction of public business will permit, customs employees may be excused on State holidays, *provided, however*, that no such employee shall be excused from performing four hours' work, exclusive of time for luncheon, on Saturdays, without being charged the time absent, because of any State law granting part holidays on Saturdays. (See Art. 1446 (c).)

J. H. MOYLE,
Commissioner of Customs.

Approved April 10, 1936.

WAYNE C. TAYLOR,

Acting Secretary of the Treasury.

[Filed, April 14, 1936; 11:05 a. m.]

Bureau of Internal Revenue.

REGULATIONS NO. 9 RELATING TO THE TAXES ON OLEOMARGARINE, ADULTERATED BUTTER, AND PROCESS OR RENOVATED BUTTER

UNDER THE ACTS OF AUGUST 2, 1886 (24 STAT. 209), MAY 9, 1902 (32 STAT. 193), AUGUST 10, 1912 (37 STAT. 273), OCTOBER 1, 1918 (40 STAT. 1008), JULY 10, 1930 (46 STAT. 1022), MARCH 4, 1931 (46 STAT. 1549), AND FEBRUARY 24, 1933 (47 STAT. 902)

[Revised April 1936]

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CHAPTER I

PLAN OF REGULATIONS

These regulations deal with a number of statutes imposing taxes on three different commodities—oleomargarine, adulterated butter, and process or renovated butter; also special taxes on persons manufacturing or selling such commodities.

So far as practicable the subject matter is divided first according to the commodities, and second according to the special-tax payers involved, the general plan being to bring the matter involving a given commodity or taxpayer under one head.

To avoid repetition much matter applicable to all three commodities has been incorporated as pertaining to oleomargarine, or one or more of the special taxes relating to oleomargarine. Its application to the other commodities or other special taxes is shown by cross reference.

If any situation involving a particular tax is not dealt with in connection with that tax, it should not be concluded that the regulations throw no light on the subject. If no cross reference is found, the index should be consulted and inquiry directed to other taxes which might involve the same situation.

Provisions of the statutes upon which the various articles of the regulations are based generally have not been repeated in the articles. Therefore the statutory excerpts preceding the several articles should be examined to obtain complete information.

CHAPTER II

DEFINITIONS OF GENERAL APPLICATION

Section 1, United States Revised Statutes

In determining the meaning of the Revised Statutes, or of any Act or Resolution of Congress passed subsequent to February twenty-fifth, eighteen hundred and seventy-one, words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include the singular; words importing the masculine gender may be applied to females; the word "person" may extend and be applied to partnerships and corporations, and the reference to any officer shall include any person authorized by law to perform the duties of such office, unless the context shows that such words were intended to be used in a more limited sense; and a requirement of an "oath" shall be deemed complied with by making affirmation in judicial form.

Section 5, United States Revised Statutes

The word "company" or "association", when used in reference to a corporation, shall be deemed to embrace the words "successors and assigns of such company or association", in like manner as if these last-named words, or words of similar import, were expressed.

ARTICLE 1. TERMINOLOGY.—(a) The terms defined in the several laws on which these regulations are based shall have the meanings so assigned to them.

(b) The initials R. S. mean the Revised Statutes of the United States.

(c) The term Commissioner means the Commissioner of Internal Revenue.

(d) The term collector means the collector of internal revenue.

(e) The term person includes a natural person, a corporation, a partnership, a company, a trust or estate, a joint-stock company, an association, or other unincorporated organization or group. It includes a guardian, committee, trustee, executor, administrator, trustee in bankruptcy, receiver, assignee for the benefit of creditors, conservator, or any person acting in a fiduciary capacity.

CHAPTER III

COMMODITY TAX—OLEOMARGARINE

DEFINITION OF OLEOMARGARINE

Section 2, Act of August 2, 1886, as amended by Section 1, Act of July 10, 1930 (46 Stat., 1022)

That for the purposes of this Act certain manufactured substances, certain extracts, and certain mixtures and compounds, including such mixtures and compounds with butter, shall be known and designated as "oleomargarine," namely: All substances heretofore known as oleomargarine, oleo, oleomargarine

oil, butterine, lardine, suine, and neutral; all mixtures and compounds of oleomargarine, oleo, oleomargarine-oil, butterine, lardine, suine, and neutral; all lard extracts and tallow extracts; and all mixtures and compounds of tallow, beef-fat, suet, lard, lard-oil, fish oil or fish fat, vegetable oil, annatto, and other coloring matter, intestinal fat, and offal fat;—if (1) made in imitation or semblance of butter, or (2) calculated or intended to be sold as butter or for butter, or (3) churned, emulsified, or mixed in cream, milk, water, or other liquid, and containing moisture in excess of 1 per centum or common salt. This section shall not apply to puff-pastry shortening not churned or emulsified in milk or cream, and having a melting point of one hundred and eighteen degrees Fahrenheit or more, nor to any of the following containing condiments and spices: salad dressings, mayonnaise dressings, or mayonnaise products nor to liquid emulsion, pharmaceutical preparations, oil-meals, liquid preservatives, illuminating oils, cleansing compounds, or flavoring compounds.

ART. 10. MATERIALS OR INGREDIENTS.—The use of other materials or ingredients than those enumerated in the statute is not prohibited, provided they are not deleterious. (See article 98.) Taxability of the product is not affected by the use of more than one of the enumerated materials or admixture of such material with other material. The percentage of enumerated material in the finished product makes no difference.

As to compounds made in part of butter, see article 104.

Section 8 (a), Act of August 2, 1886, as Amended by Section 3, Act of May 9, 1902 (32 Stat. 194), and Section 2, Act of March 4, 1931 (46 Stat. 1549)

Upon oleomargarine which shall be manufactured and sold, or removed for consumption or use, there shall be assessed and collected a tax at the rate of one-fourth of 1 cent per pound, to be paid by the manufacturer thereof; except that such tax shall be at the rate of 10 cents per pound in the case of oleomargarine which is yellow in color.

ART. 11. COMMODITY TAX.—The tax on oleomargarine accrues upon sale or removal from the place of manufacture. The tax shall be paid by the manufacturer by affixing stamps to the packages before they are removed from the bonded premises. A fraction of a pound is taxable as a pound.

Oleomargarine may be withdrawn tax free (1) for use of the United States (see Regulations 34) or (2) for export (see article 82 and Regulations 73).

Section 8 (b), Act of August 2, 1886, as amended by Section 3, Act of May 9, 1902 (32 Stat. 194), and Section 2, Act of March 4, 1931 (46 Stat. 1549)

For the purposes of subsection (a) and of section 3, oleomargarine shall be held to be yellow in color when it has a tint or shade containing more than one and six-tenths degrees of yellow, or of yellow and red collectively, but with an excess of yellow over red, measured in the term of Lovibond tintometer scale or its equivalent. Such measurements shall be made under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, and such regulations shall provide that the measurements shall be applied in such manner and under such conditions as will, in the opinion of the Commissioner, insure as nearly as practicable that the result of the measurement will show the color of the oleomargarine under the conditions under which it is customarily offered for sale to the consumer.

ART. 12. DETERMINING COLOR.—(1) The sample of oleomargarine to be tested should be spread to a smooth surface in a glazed porcelain tray having an inside depth of three-sixteenths of an inch. Irregularities on the surface of the oleomargarine should be avoided because they cause the formation of dark shadows. Excessive working of the product should also be avoided because any melted fat on the surface will increase the tint of the oleomargarine.

(2) The temperature at which the test is made depends to some extent upon the composition of the oleomargarine but should be high enough to permit the spreading of the oleomargarine in the tray and low enough to prevent melting on the surface. A temperature of 60° F. has been found satisfactory.

(3) The tray containing the oleomargarine should be placed on a sheet of white filter paper just below the cell end of a monocular tilting type Lovibond tintometer. Fine precipitated calcium sulphate worked to a smooth surface should be put in a similar tray alongside the tray containing the oleomargarine. By tilting the rear of the instrument to an angle of 45 degrees the light from both trays is reflected through the instrument.

(4) Standard color glass slides should be placed in slots provided for this purpose until the tint of the calcium sulphate appears to be the same as the tint or shade of the oleomargarine. The numerical color value of the glass slides used is the tint or shade of the oleomargarine.

(5) The cell end of the tintometer is placed in an 18-inch cubical skeleton frame constructed from one-half inch square wooden material, five sides being covered with sheets of white filter paper, the sixth side being left open for the tintometer. Light from a north window is preferable in taking readings. The use of filtered light through this device makes the color more distinct and also cuts off the possibility of shadows from the outside.

(6) The adaptability of the eye to perceive variations in color varies considerably with time of observation. It is imperative, therefore, to limit the observation to a fixed time, for which 5 seconds will be found convenient.

(7) The porcelain trays used in this test must be of the type generally used with the Lovibond tintometer for matching colors of powders.

Section 14, Act of August 2, 1886 (24 Stat. 212)

* * * And such Commissioner is authorized to decide what substances, extracts, mixtures, or compounds which may be submitted for his inspection in contested cases are to be taxed under this act; and his decision in matters of taxation under this Act shall be final. * * *

ART. 13. DISPUTED CLASSIFICATION.—(a) *Samples for analysis.*—When the classification of a product as oleomargarine, or as colored oleomargarine insufficiently taxed, is disputed, the collector will submit a sample to the Commissioner, under whose direction it will be tested to determine its character. Samples should be addressed to the Laboratory Division, Treasury Department, Washington, D. C., and must contain not less than 1 pound each and be taken in the presence of an internal-revenue officer. If the product is to be tested for unusual coloring matter at least 2 pounds should be furnished. (For specific instructions as to sampling see article 107.)

(b) *Commissioner's decision.*—The Commissioner's finding as to samples representing one lot will not be indicative of his decision as to another lot, although the lots may be similarly labeled. If the Commissioner's finding shows no tax, or no additional tax, due, the goods will be released; if not, forfeiture proceedings may be instituted.

Section 9, Act of August 2, 1886 (24 Stat. 211)

That whenever any manufacturer of oleomargarine sells, or removes for sale or consumption, any oleomargarine upon which the tax is required to be paid by stamps, without the use of the proper stamps, it shall be the duty of the Commissioner of Internal Revenue, within a period of not more than two years after such sale or removal, upon satisfactory proof, to estimate the amount of tax which has been omitted to be paid, and to make an assessment therefor and certify the same to the collector. The tax so assessed shall be in addition to the penalties imposed by law for such sale or removal.

Section 1109, Revenue Act of 1926, as Amended by Section 619 (a), Revenue Act of 1928 (45 Stat. 878)

(a) Except in the case of income, war-profits, excess-profits, estate, and gift taxes—

(1) Notwithstanding the provisions of section 3182 of the Revised Statutes or any other provision of law, all internal-revenue taxes shall (except as provided in paragraph (2) or (3) of this subdivision) be assessed within four years after such taxes became due, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of five years after such taxes became due.

(2) In case of a false or fraudulent return with intent to evade tax, of a failure to file a return within the time required by law, or of a willful attempt in any manner to defeat or evade tax, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(3) Where the assessment of any tax imposed by this Act or by prior Act of Congress has been made (whether before or after the enactment of this Act) within the statutory period of limitation properly applicable thereto, such tax may be collected by distraint or by a proceeding in court (begun before or after the enactment of this Act, but only if begun (A) within six years after the assessment of the tax, or (B) prior to the expiration of any period for collection agreed upon in writing by the Commissioner and the taxpayer.

(b) This section shall not bar a distraint or proceeding in court begun before the enactment of the Revenue Act of 1924; nor shall it authorize the assessment of a tax or the collection thereof by distraint or by proceeding in court if at the time of the enactment of this Act such assessment, distraint, or proceeding was barred by the statutory period of limitation properly applicable thereto, unless prior to the enactment of this Act the Commissioner and the taxpayer agreed in writing thereto.

ART. 14. ASSESSMENT OF COMMODITY TAX.—Upon satisfactory proof that a manufacturer sold any taxable oleomargarine without affixing the proper stamps, the Commissioner is required by law to assess the tax and certify the amount to the collector for collection. The assessment must be made within four years from the date when the tax became due, except that in case of willful intent to evade tax, assessment may be made at any time. The tax so assessed shall be in addition to the penalties imposed by law for such sale or removal. (See sections 17 and 18, Act of August 2, 1886.)

CHAPTER IV

MANUFACTURERS OF OLEOMARGARINE

DEFINITION

Section 3, Act of August 2, 1886 (24 Stat. 209), Amended by Section 2, Act of May 9, 1902 (32 Stat. 194), and Section 1, Act of March 4, 1931 (46 Stat. 1549)

* * * Manufacturers of oleomargarine shall pay six hundred dollars. Every person who manufactures oleomargarine for sale shall be deemed a manufacturer of oleomargarine. And any person that sells, vends, or furnishes oleomargarine for the use and consumption of others, except to his own family table without compensation, who shall add to or mix with such oleomargarine any substance which causes such oleomargarine to be yellow in color, determined as provided in subsection (b) of section 8, shall also be held to be a manufacturer of oleomargarine within the meaning of this Act and subject to the provisions thereof.

ART. 20. SPECIAL-TAX LIABILITY.—(a) *Preliminary requirements.*—A manufacturer must make return on Form 11 to the collector, pay special tax, and comply with the provisions contained in Chapter VII, relating to special taxes. As to execution of returns, see article 93. As to penalty for non-payment of special tax, see section 4, Act of August 2, 1886.

(b) *Liability as a wholesale dealer.*—If a manufacturer sells statutory packages of his own production elsewhere than at the place of manufacture, liability as a wholesale dealer is incurred. (See article 41.) As to exemption from liability as a wholesale dealer, see articles 41 (j) (1) and 64. As to liability of manufacturer repacking and selling product of another manufacturer, see article 33 (b).

(c) *Liability as a retail dealer.*—A manufacturer shall sell oleomargarine in statutory packages only. (See section 6, Act of August 2, 1886, as amended.) A manufacturer who sells otherwise than in statutory packages incurs liability to the \$1,000 penalty imposed by section 18, Act of August 2, 1886. If the quantity sold is less than 10 pounds, liability as a retail dealer is also incurred. (See section 3, Act of August 2, 1886.)

ART. 21. COLORATION.—(a) *Taxable situations.*—Liability to special tax as a manufacturer and to commodity tax is incurred in the following situations:

(1) *Dealers.*—Where a dealer colors oleomargarine with or without profit at the request of a customer either before or after sale.

(2) *Eating places.*—Where the proprietor of a hotel, boarding house, restaurant, or other eating place colors and serves oleomargarine to paying guests or employees; but see (b) (4), below.

(3) *Institutions.*—Where a sanatorium, hospital, or any charitable, religious, educational, or other institution colors oleomargarine for the use of inmates or employees of the institution; but see (b) (2), below.

(4) *Demonstrators.*—Where a person who has colored oleomargarine for demonstration purposes supplies it to others, gratuitously or otherwise, for use or consumption. Liability to special tax will attach in such cases at each place where the coloring is done; but see (b) (5), below.

(b) *Nontaxable situations.*—Liability is not incurred in the following situations:

(1) *Family*.—Where oleomargarine is colored in a private family for household use only. "Household use" includes serving to members of the family, household servants, and nonpaying guests.

(2) *Governmental institutions*.—Where an institution under the complete control of the United States, or a State or political subdivision thereof, in the exercise of an essential governmental function, colors oleomargarine for use of inmates or employees of the institution.

(3) *Cooperative clubs or fraternities*.—Where a cooperative club or fraternity colors oleomargarine for serving upon the club table, provided the members pay their proportionate share for maintenance of the table and meals are not served to other persons for compensation.

(4) *Purveyors*.—Where a purveyor or caterer colors and uses oleomargarine as an ingredient in the preparation of food sold or distributed to others, provided the oleomargarine loses its identity as a distinct article of food in the preparation; but see (a) (2), above.

(5) *Demonstrators*.—Where a person who colors oleomargarine for demonstration purposes does not supply it to others for use or consumption; but see (a) (4), above.

(6) *Sample distributors*.—Where a person gives away samples of tax-paid colored oleomargarine.

Section 5, Act of August 2, 1886 (24 Stat. 210)

That every manufacturer of oleomargarine shall file with the collector of internal revenue of the district in which his manufactory is located such notices, inventories, and bonds, shall keep such books and render such returns of material and products, shall put up such signs and affix such number to his factory, and conduct his business under such surveillance of officers and agents as the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, may, by regulation, require. * * *

ART. 22. NOTICE OF INTENTION TO MANUFACTURE.—(a) *Execution of form*.—Before commencing business a manufacturer shall file with the collector a notice of intention to manufacture oleomargarine. The notice shall be prepared on Form 213 and signed as prescribed in article 93. The premises described in the notice shall conform with the provisions of article 26 (a).

(b) *Notice of change*.—A new notice shall be filed with the collector before or immediately upon making any change either in location or in the premises or ownership of the business as described in the original notice. (See article 69 as to failure to register change.)

ART. 23. INVENTORIES.—(a) *Time of filing*.—A manufacturer shall file with the collector an inventory at commencement of business, on July 1 of each year thereafter, and upon discontinuing business. Inventories shall be prepared on Form 215 and shall be marked "Opening" or "Closing" in accordance with the fact. The provisions of article 93 as to the execution of returns shall apply to the execution of inventories.

(b) *Verification by collector*.—A personal examination of each manufacturer's stock shall be made by the collector, or one of his deputies, who, after satisfying himself as to the correctness of the inventory, will countersign Form 215.

ART. 24. RECORDS.—(a) *Manner of keeping*.—A manufacturer shall keep at his place of business separate records of colored and uncolored oleomargarine. If the record is kept as hereinafter prescribed in the manufacturer's own books or in other convenient form no other record will be necessary. The record should be kept in a neat and accurate manner, preserved at least four years, and be available at all times for inspection by internal-revenue officers. Care should be taken to exclude from the record any product other than tax-paid and branded oleomargarine.

Entry shall be made not later than the day following that on which the transaction occurred. Quantities reported shall be as indicated by the tax-paid stamps affixed to the packages, except that where oleomargarine is withdrawn free of tax for use of the United States and for export, or where the product is returned to the factory, the actual quantity will be recorded. A fraction of a pound shall be accounted as a pound.

(b) *Items*.—The record must show:

(1) The number of pounds of each material or ingredient used in the production of oleomargarine, and the number of pounds of such materials used for other purposes.

(2) The number of pounds of oleomargarine produced.

(3) The number of pounds in each lot disposed of, the name of the consignee, the address to which delivered, and the date of shipment.

(4) The number of pounds in each lot returned to the factory, the name of the person by whom returned, the address from which returned, and the date of receipt.

(5) The number of pounds reworked, disposed of as grease or otherwise destroyed.

(6) The total value of oleomargarine tax stamps purchased and used.

(c) *Transactions*.—The following rules will apply:

(1) *Samples*.—Sample packages of tax-paid oleomargarine distributed gratuitously shall be recorded in the same manner as oleomargarine which is sold.

(2) *Transfers to self*.—Where oleomargarine is transferred by a manufacturer to himself as a wholesale or retail dealer, the transaction shall be recorded in the same manner as a transfer to another person.

(3) *Sales to chain stores*.—Where oleomargarine is shipped to one person doing business at different places, as in the case of chain stores, the deliveries to each address shall be recorded separately.

(4) *Drop shipments*.—Where a manufacturer receives an order from one person to ship oleomargarine to another, the transaction shall be recorded in the name and address of the consignee, followed by "acc't of" and the name and address of the person for whose account the shipment was made. A manufacturer shall not record consignments on orders in the names of agents, solicitors, or other persons transmitting an order for another party. (See article 41 (e) as to liability of agents.)

ART. 25. Monthly returns.—(a) *When required*.—A return for each month of the period of special-tax liability shall be made to the collector not later than the 15th of the month following. If the business is discontinued, the return for the month in which business ceases should be marked "Final."

(b) *Miscellaneous*.—Monthly returns should be prepared from the manufacturer's records and typewritten on Form 216 in duplicate, except that the first page should be prepared in triplicate. The first page of the return should be filled out as indicated on the form. The return and the extra copy of the first page should be forwarded to the collector. The carbon duplicate of the complete return shall be retained at least four years and be available at all times for examination by internal-revenue officers.

(c) *Separate returns*.—One return shall be made for colored and another for uncolored oleomargarine. But one return will be required from a manufacturer who produces oleomargarine taxed at one-fourth of 1 cent a pound only, provided a statement to that effect is inserted in the jurat of his return.

(d) *Supplemental sheets*.—Form 216a is a supplemental sheet and shall be used for reporting in detail disposals of new stock and receipt and resale of oleomargarine returned by customers. The entries should be double-spaced, as indicated by the dotted lines on the sheet. Appropriate headings should be set up in capital letters in the center of the page. Each page should be completely used before beginning another page. The order indicated in paragraphs (e) to (p) below should be observed.

(e) *Disposals to wholesalers*.—Under a heading, WITHDRAWN TAX-PAID, WHOLESALE DEALERS, each entry shall show (1) date of invoice, (2) name and address of consignee, and (3) quantity in each consignment. The entries shall be made in alphabetical order of consignees' names and all shipments to one consignee, in order of dates, shall be reported before entering shipments to the next consignee.

(f) *Disposals to retailers and consumers*.—Under a heading, WITHDRAWN TAX-PAID, RETAILERS AND CONSUMERS, entries should be grouped in alphabetical order of (1) the names of States

and (2) the surnames of consignees in each State group. State names should be in capital letters centered on the page at the head of each group, and a line left above and below each State subheading. The State name should be omitted in entering the several individual addresses, since it will appear at the head of the group.

(g) *Registered names and addresses required.*—Names and addresses shall be entered as they appear on customers' special-tax stamps. Where the shipping address differs from the registered address, the name of the shipping point, in parentheses, should be entered with the registered address. (See article 54 (f).) Surnames should precede first names. County names should be included in the addresses of customers located in the States specified at the head of Form 216a.

(h) *Repeat shipments.*—Only the aggregate quantity disposed of to each person at one address during the month shall be reported. Example: If 20 sales of 10 pounds each were made, the name of the purchaser and the address to which the oleomargarine was delivered should be entered but once with the total of 200 pounds.

(i) *Chain store entries.*—Chain stores should be reported in alphabetical order of the names of (1) the cities or towns in which the stores are located and (2) the streets on which situated. Numerical order of street numbers should be observed where more than one store is located on the same street.

(j) *Exportation.*—Under a heading, WITHDRAWN FREE OF TAX FOR EXPORT, there shall be entered as to each foreign consignment (1) date of invoice, (2) name of consignee and place of consignment, and (3) quantity. The entries shall be in the order prescribed in section (e) for reporting disposals to wholesale dealers.

(k) *Disposals to United States.*—Under a heading, WITHDRAWN FREE OF TAX FOR USE OF THE UNITED STATES, there shall be entered as to each withdrawal (1) date of removal, (2) name and address of consignee, (3) permit and requisition numbers, and (4) quantity. The entries shall be made in the order prescribed in section (e) for reporting disposals to wholesale dealers.

(l) *Returned goods.*—Under a heading, RETURNED GOODS, there shall be shown as to each lot (1) date of invoice, (2) name and address of consignor, and (3) quantity. The entries shall be made in alphabetical order of consignors' names and all receipts from one consignor, in order of dates, shall be reported before entering receipts from the next consignor. Only oleomargarine of the manufacturer's own production may be entered under this heading. Oleomargarine received from other manufacturers for reworking (see article 33 (b)) shall be included in the total of returned goods reworked as prescribed in paragraph (n).

(m) *Resales.*—Under a heading, REALES TO WHOLESALE DEALERS, entries shall be made in the same manner as disposals of new stock to such customers as prescribed in paragraph (e). Under a heading, REALES TO RETAILERS AND CONSUMERS, entries shall be made in the same manner as disposals of new stock to such customers as prescribed in paragraph (f) of this article. (See article 41 (f) as to resale of returned goods.)

(n) *Reworked or denatured.*—The total quantity of any oleomargarine not removed from the factory but reworked or disposed of as grease shall be reported in the credit column of the summary of new stock. The total quantity of returned goods reworked or disposed of as grease shall be reported in the credit column of the summary of returned oleomargarine. The combined totals of oleomargarine reworked, as shown in the respective summaries, shall be reported under the heading, MATERIALS USED DURING MONTH, page 1, Form 216. A certificate of oleomargarine reworked or disposed of as grease shall be attached to the return as provided in article 33 (c).

(o) *Losses.*—Oleomargarine accidentally destroyed, lost in transit, or unaccounted for shall be reported in the credit column of the proper summary and an appropriate explanation inserted.

(p) *Summary.*—The quantities entered under the respective headings on Form 216a shall be totaled and the totals

carried to the proper lines of the summaries, page 1, Form 216. The actual balances of new stock and returned goods on hand at the beginning and close of the month shall be entered in the proper summary, which should balance. The quantities reported on hand at the beginning of the month shall agree with the quantities reported on hand at the close of the preceding month.

(q) *Correcting entries.*—If after rendering a return it is found that any receipts or disposals were omitted or erroneously reported, correcting entries shall be made on the return for the following month.

(r) *Penalties for falsification.*—For any false entry or the omission, with fraudulent intent, of any entry required to be made in his record or returns, a manufacturer is liable to penalties imposed by section 18 of the Act of August 2, 1886.

ART. 26. FACTORIES.—(a) *Premises.*—Unless otherwise approved by the Commissioner, another factory may not be operated at the same time within the premises described in a manufacturer's notice, Form 213 (article 22). Oleomargarine factory premises must be separated by solid walls or partitions from any contiguous premises in which butter, adulterated butter, or process or renovated butter is manufactured.

(b) *Signs.*—Over the principal entrance to each building in which oleomargarine is produced the manufacturer shall conspicuously display a sign showing the name in which the business is conducted, the kind of business, and the internal-revenue factory number, in durable characters not less than 3 inches high.

(c) *Numbers.*—Each oleomargarine factory shall be numbered by the collector of the district in which the plant is located. The number assigned to one factory shall not be used by another oleomargarine factory in the same district, or changed without the approval of the Commissioner. If the factory is moved to another part of the district the number shall be retained. If moved to another district a new number will be assigned to the factory. If the business is discontinued the number will not be assigned to another factory during the balance of the fiscal year.

Section 1, Act of August 13, 1894 (28 Stat. 279)

That whenever any * * * bond, or undertaking conditioned for the faithful performance of any duty, or for doing or refraining from doing anything in such * * * bond, or undertaking specified, is by the laws of the United States required or permitted to be given with one surety or with two or more sureties, the execution of the same or the guaranteeing of the performance of the condition thereof shall be sufficient when executed or guaranteed solely by a corporation incorporated under the laws of the United States, of any State having power to guarantee the fidelity of persons holding positions of public or private trust, and to execute and guarantee bonds and undertakings in judicial proceedings: *Provided*, That such * * * bond, or undertaking be approved by the head of department, * * * officer, * * * or * * * executive, * * * required to approve or accept the same. But no officer or person having the approval of any bond shall exact that it shall be furnished by a guarantee company or by any particular guarantee company.

Section 5, Act of August 2, 1886 (24 Stat. 210)

* * * But the bond required of such manufacturer shall be with sureties satisfactory to the collector of internal revenue, and in a penal sum of not less than five thousand dollars; and the sum of said bond may be increased from time to time and additional sureties required at the discretion of the collector, or under instructions of the Commissioner of Internal Revenue.

ART. 27. BONDS.—(a) *Execution.*—Before commencing business a manufacturer shall furnish the collector with a bond which meets with his approval. Bonds shall be executed in duplicate on Form 214. Both copies shall be forwarded to the collector, who will retain the duplicate and forward the original to the Commissioner. Bonds may be executed with individual or corporate sureties or supported by Government securities.

(1) *Corporate sureties.*—A corporation which has been authorized by the Secretary of the Treasury to execute bonds in favor of the United States may be accepted as sole surety. Such corporations are listed in Treasury Department Circular 356, issued semiannually.

(2) *Individual sureties.*—At least two individual sureties are required. Each shall have property subject to execution of a current market value, above all incumbrances, equal to the penalty of the bond. An affidavit as to the adequacy of the security, executed on Form 33, shall be filed with the bond and annually while it is in force.

(3) *Qualifications.*—Personal sureties shall reside within the State in which the factory covered by the bond is located. Real property offered as security shall be located in the State in which the factory is situated. Partners cannot act as sureties upon the bond of their firm. Stockholders of a corporate principal may be accepted as sureties provided their qualifications as such are independent of their holdings in the stock of the corporation.

(4) *Government securities.*—Bonds or notes of the United States may be deposited as security for penal bonds, as provided in section 1126 of the Revenue Act of 1926. Collectors will be governed by the rules promulgated in Department Circular 154 (as revised) before accepting such securities.

(b) *New bonds.*—If the interest of the Government demands it, a new bond, or one for a larger amount, may be required at any time. A new bond shall be required immediately upon the death, change of address, or insolvency of a personal surety, or upon insolvency of a corporate surety, and from executors, administrators, and assigns who continue the business.

(c) *Alterations or erasures.*—Bonds in which alterations are made subsequent to execution will be rejected. If any alterations or erasures are made prior to execution, a sworn statement to that effect shall be made by the surety on the face of the bond.

(d) *Penal sum of bonds.*—The minimum penal sum of a bond is \$5,000, and the maximum \$100,000. For the first year the manufacturer engages in business the sum shall be determined by the estimated production of oleomargarine for that year, and thereafter by the output during the preceding year, in accordance with the accompanying scale. When the production for any year exceeds the number of pounds on which the penal sum was based, a new bond for the next and succeeding years must be given in the requisite penal sum.

Production previous fiscal year		Penal sum of bond required
More than—	Not more than—	
Pounds	Pounds	
500,000	500,000	\$5,000
1,000,000	1,000,000	7,500
1,500,000	1,500,000	10,000
2,000,000	2,000,000	12,500
2,500,000	2,500,000	15,000
3,000,000	3,000,000	17,500
3,500,000	3,500,000	20,000
4,000,000	4,000,000	22,500
4,500,000	4,500,000	25,000
5,000,000	5,000,000	27,500
5,500,000	5,500,000	30,000
6,000,000	6,000,000	32,500
6,500,000	6,500,000	35,000
7,000,000	7,000,000	37,500
7,500,000	7,500,000	40,000
8,000,000	8,000,000	42,500
8,500,000	8,500,000	45,000
9,000,000	9,000,000	47,500
9,500,000	9,500,000	50,000
10,000,000	10,000,000	52,500
10,500,000	10,500,000	55,000
11,000,000	11,000,000	57,500

¹ For each additional 500,000 pounds of oleomargarine produced the bond should be increased \$2,500, but in no case shall the bond exceed \$100,000.

Section 6, Act of August 2, 1886, as Amended by Act of October 1, 1918, and Act of February 24, 1933 (47 Stat. 902)

That all oleomargarine shall be packed by the manufacturer thereof in firkins, tubs, or other wooden, tin-plate, or paper packages, not before used for that purpose, containing, or enclosed in a manufacturer's package made from any of such materials of, not less than 10 pounds and marked, stamped, and branded as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe; and all sales made by manufacturers of oleomargarine and wholesale dealers in oleomargarine shall be in original stamped packages * * *

ART. 28. PACKAGES.—(a) *General.*—No maximum package is prescribed by law. Containers must be of a durable and substantial character and must completely cover the contents. As to penalty for refilling containers from which oleomargarine has been removed, see section 13, Act of August 2, 1886.

(b) *Additional coverings.*—Properly stamped and branded packages of oleomargarine may be incased in additional coverings or wrappers provided such coverings are branded as prescribed in article 29 and contain the following inscription legibly printed or stenciled in letters not less than half an inch high: "Tax has been paid and proper stamp placed on the original package contained herein."

(c) *Prints and rolls.*—Manufacturers may subdivide a statutory package of oleomargarine into prints or rolls, provided such subdivisions do not constitute original or statutory packages within the meaning of the law, or weigh less than one-quarter of a pound. Prints and rolls shall be placed in cartons or wrappers branded as prescribed in article 29.

ART. 29. BRANDING.—(a) *Statutory packages.*—Before removal from the factory the word "Oleomargarine", the factory number, district, and State, and the gross, tare, and net weights shall be legibly printed or stenciled on one of the sides or top of each package of oleomargarine in the following manner:

OLEOMARGARINE

Factory No. 1, 1st Dist. Penna.
63-3-60

The word "Oleomargarine" shall be in bold-face gothic letters not less than three-quarters of an inch high and the other letters and figures not less than one-half inch high. The color of the brand shall be in strong contrast to that of the package.

As to branding statutory packages for export, see article 82 (d). Imported packages shall be branded as prescribed in article 80 (c). As to branding by retailers, see article 54 (b).

(b) *Display containers.*—If the brand required by law is placed on the back or end of a container designed for displaying the contents, the word "Oleomargarine" in plain gothic letters at least three-quarters of an inch high shall also be branded on the front of the container in such manner as to be plainly visible when the package is on display. (See article 54 (e).)

(c) *Cartons.*—The word "Oleomargarine", the net weight of contents, and the manufacturer's name and address, or the internal-revenue factory number, district, and State, shall be branded on cartons. The word "Oleomargarine" shall be placed on two of the principal display panels in plain gothic letters of not less than 20-point type. Specimen:

OLEOMARGARINE

The word shall measure at least 3 3/8 inches in length and be of a color in strong contrast to that of the carton. Hair-line, shaded, or ornate letters, or letters in outline may not be used; but see (d) below.

As to branding cartons or inner packages for export, see article 82 (d).

(d) *Inside wrappers.*—The manufacturer's name and address and the factory number, district, and State may be omitted from cartons if printed on wrappers used with cartons. Where a manufacturer operates more than one factory he may brand cartons with the name and address of his general office, or the address of each factory, provided an inside wrapper is used showing either the name and address of the factory where the oleomargarine was produced, or the factory number, district, and State.

(e) *Blank wrappers.*—Blank wrappers may be used with properly branded cartons but if anything is printed on the wrappers in addition to the inspection legend of the United States Department of Agriculture, the word "Oleomargarine" shall appear on the wrappers in letters of the same size and design prescribed for cartons.

(f) *Wrappers without cartons.*—When used without cartons wrappers shall be branded in the same manner as

cartons. The word "Oleomargarine" shall be so placed on the wrapper that it will appear at the top and bottom of the print or roll when wrapped.

(g) *Dealer's name on containers.*—When a dealer's name is printed on containers a phrase such as "prepared for", "distributed by", etc., shall be placed before his name to show that the dealer is not the manufacturer.

(h) *Advertisements.*—Trade-marks, illustrations, recipes, coupons, premium lists, etc., may be printed on cartons and wrappers provided such matter does not obscure the brand or conflict with any Federal or State law. (See (i) below.)

(i) *Coloring directions.*—Directions for coloring oleomargarine may be printed on cartons and wrappers provided there is included a statement that under Federal law oleomargarine may be colored, without liability to tax, only by a private family for household use; cooperative clubs or fraternities for use of members where boarding expenses are prorated; and institutions under the complete control of the United States, or a State or political subdivision thereof, for use of inmates or employees.

(j) *Tentative approval.*—Only cartons and wrappers formally approved by the Commissioner may be used for packing oleomargarine. However, a sketch or proof may be submitted through the collector for tentative approval of the Commissioner before the cartons and wrappers are ordered. Because photostats do not show color contrasts (see (c) above), a colored sketch should be furnished. Not more than one copy of a sketch is necessary. It will be returned to the manufacturer if desired.

(k) *Formal approval.*—Three specimens of the finished carton or wrapper shall be furnished the collector, who will forward them to the Commissioner for formal approval. The specimens should be free of paraffin or other coating. Two approved copies will be returned to the collector, who will retain one copy and send the other to the manufacturer.

(l) *Prohibited marks.*—There may not be used upon packages of oleomargarine, except to the extent required by State laws, the word "butter", "butterine", "creamery", or "dairy", or any other word or phrase, or the name of a breed of cattle, or a trade-mark, label, picture, design, or device which conveys the impression that the article is a product of the dairy. However, if any prohibited word constituted a part of a manufacturer's or dealer's name prior to June 22, 1923 (the effective date of the 1923 revision of these regulations), he may continue to use the name on packages of oleomargarine.

(m) *Labeling nut oleomargarine.*—Containers for oleomargarine made from cottonseed oil, soy bean oil, or other oils not derived from nuts in whole or in part, may not be labeled "Nut Margarine" or with any statement, design, or device indicating the fat content to be derived from nuts. (See article 129 (4), Misbranding under Food and Drugs Act.)

(n) *Penalty for misbranding.*—For falsely branding a package of oleomargarine a fine of not more than \$1,000 and imprisonment for not more than two years for each offense is provided. (See section 6, Act of August 2, 1886, as amended.)

Section 7, Act of August 2, 1886 (24 Stat. 210)

That every manufacturer of oleomargarine shall securely affix, by pasting, on each package containing oleomargarine manufactured by him, a label on which shall be printed, besides the number of the manufactory and the district and State in which it is situated, these words: "Notice.—The manufacturer of the oleomargarine herein contained has complied with all the requirements of law. Every person is cautioned not to use either this package again or the stamp thereon again, nor to remove the contents of this package without destroying said stamp, under the penalty provided by law in such cases." Every manufacturer of oleomargarine who neglects to affix such label to any package containing oleomargarine made by him, or sold or offered for sale by or for him, and every person who removes any such label so affixed from any such package, shall be fined fifty dollars for each package in respect to which such offense is committed.

ART. 30. CAUTION NOTICE.—(a) *Placement upon packages.*—Before removal from the factory each statutory package of oleomargarine must have conspicuously printed or

labeled on it the following notice, which must measure not less than 3 inches long by 1½ inches wide:

FACTORY NO. _____ DISTRICT, STATE OF _____

NOTICE.—The manufacturer of the oleomargarine herein contained has complied with all the requirements of law. Every person is cautioned not to use either this package again (for oleomargarine) or the stamp thereon again, nor to remove the contents of this package without destroying said stamp, under the penalty provided by law in such cases.

(See penalty for refilling containers provided by section 13, Act of August 2, 1886.)

(b) *Inspection legend.*—On packages of oleomargarine made from animal fats, the caution notice may be placed with the inspection legend of the Bureau of Animal Industry, United States Department of Agriculture, provided the notice is placed above the legend so that the internal-revenue factory number may be readily distinguished from the establishment number of the Department of Agriculture. The notice and legend shall not be placed on packages in any way contrary to the regulations of the Department of Agriculture. The inspection legend is not required on packages of oleomargarine made exclusively from vegetable oils.

(c) *Penalty for omission.*—For failure to place the caution notice on statutory packages of oleomargarine and for removal of such notice from packages a fine of \$50 for each package involved is provided by section 7, Act of August 2, 1886, above.

Section 8 (c), act of August 2, 1886, as amended by section 3, act of May 9, 1902 (32 Stat. 194), and section 2 (c), act of March 4, 1931 (46 Stat. 1550)

The tax levied by this section shall be represented by coupon stamps; and the provisions of existing laws governing the engraving, issue, sale, accountability, effacement, and destruction of stamps relating to tobacco and snuff, as far as applicable, are hereby made to apply to stamps provided for by this section.

Section 3369, United States Revised Statutes

The Commissioner of Internal Revenue shall cause to be prepared suitable and special stamps for the payment of the tax on tobacco and snuff, which shall indicate the weight and class of the article on which payment is to be made, and shall be affixed and canceled in the mode prescribed by the Commissioner of Internal Revenue. * * * Such stamps shall be furnished to the collectors requiring them, and each collector shall keep at all times a supply equal in amount to three months' sale thereof, and shall sell the same only to the manufacturers of tobacco and snuff in their respective districts who have given bonds as required by law, and to owners or consignees of tobacco or snuff, upon the regulation of the proper custom-house officer having the custody of such tobacco and snuff; * * *

Section 3446, United States Revised Statutes, as Amended by Section 18, Act of March 1, 1879 (20 Stat. 351)

The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may establish and, from time to time, alter or change the form, style, character, material, and device of any stamp, mark, or label used under any provision of the laws relating to internal revenue. Such stamps shall be attached, protected, removed, canceled, obliterated, and destroyed, in such manner and by such instruments or other means as he, with the approval of the Secretary of the Treasury, may prescribe; and he is hereby authorized and empowered to make, with the approval of the Secretary of the Treasury, all needful regulations relating thereto; and all pains, penalties, fines, and forfeitures now provided by law relating to internal-revenue stamps shall apply to and have full force and effect in relation to any and all stamps which may or shall be so established by the Commissioner of Internal Revenue: *Provided*, Such stamps or device or instrument or means of removal or obliteration, shall entail no additional expense upon the persons required to affix or use the same.

ART. 31. STAMPING PACKAGES.—(a) *Denominations of stamps.*—Stamps for payment of the tax on colored and uncolored oleomargarine are issued in sheets of 25 stamps each in denominations of 10, 12, 15, 18, 20, 24, 30, 32, 48, 60, and 62 pounds, and are available at collectors' offices.

(b) *Ordering stamps.*—Stamps for packages of oleomargarine will be sold only to registered manufacturers. They shall be purchased from the collector of the district in which the factory is located. Orders for stamps shall be prepared on Form 218. A remittance for the total value of the stamps shall accompany the order.

(c) *Affixing stamps.*—An internal-revenue stamp of a denomination that will fully cover the tax on the net weight of the contents shall be affixed to each package of oleomargarine before removal from the factory, except packages for export and for use of the United States. A single stamp of a denomination denoting the quantity in the package shall be used if stamps of such denomination are issued. If a single stamp will not fully cover the tax due, the least sufficient number of additional stamps shall be used.

(d) *Canceling stamps.*—Each stamp affixed to a package shall be canceled before removal of the oleomargarine from the factory. The cancellation shall be legibly written or printed in ink, or perforated, and shall show the factory number, district, and State, and date. The cancellation marks may be abbreviated in the following manner, indicating, for example, cancellation by factory No. 10, first district of Illinois, on January 15, 1935: 10-1-III, 1-15-35.

(e) *Penalty for improper stamping.*—For failure to affix a stamp or affixing stamps denoting a less amount of tax than required by law, a fine of not more than \$1,000 and imprisonment for not more than two years for each offense is provided. (See section 6, Act of August 2, 1886.)

(f) *Forfeiture of goods.*—Unstamped oleomargarine or colored oleomargarine tax-paid at one-fourth of 1 cent a pound is subject to forfeiture. (See section 15, Act of August 2, 1886.)

Section 3315, United States Revised Statutes

The Commissioner of Internal Revenue may, under regulations prescribed by him with the approval of the Secretary of the Treasury, issue stamps for restamping packages of * * * tobacco, cigars, snuff, cigarettes, * * * which have been duly stamped but from which the stamps have been lost or destroyed by unavoidable accident.

ART. 32. REPACKING AND RESTAMPING (OUTSIDE OF FACTORY).—(a) *When allowed.*—Provision is made for restamping packages of oleomargarine where the stamps were accidentally mutilated, destroyed, or lost from the packages. (Section 3315, R. S., made applicable by section 8 (c), Act of August 2, 1886, as amended.) Such packages are liable to seizure, as provided in section 15, Act of August 2, 1886, unless the following requirements are complied with immediately:

(b) *Application.*—Application for restamping shall be made in writing to the collector of internal revenue for the district in which the packages to be restamped are held. The application shall state the total number of packages and total number of pounds of colored or uncolored oleomargarine; the name and address of the person in whose custody the packages are held; the number and denomination of lost or mutilated stamps; the nature of the applicant's interest in the goods; and the cause of loss or mutilation of the stamps.

(c) *Affidavit.*—If the stamps were lost or destroyed in transit, the application shall be supported by an affidavit of the consignor, or agent having personal knowledge of the circumstances, to substantiate the claim that the packages were properly stamped when shipped. The affidavit shall show, so far as known, how the loss or destruction of the stamps occurred. If the stamps were lost or mutilated while in possession of the applicant, the application shall be accompanied by an affidavit detailing the circumstances in connection with the loss or mutilation of the stamps.

(d) *Inspection.*—If the collector finds the application and affidavit have been prepared as prescribed, he shall direct a deputy to immediately inspect the packages. The deputy shall make a written report to the collector of the number of packages which require restamping, the condition and contents of each package, and the kind and condition of the stamps remaining attached.

(e) *Repacking.*—If the deputy finds the packages to be in such condition as to require repacking he shall include in his report a statement as to the number and denomination of new stamps required. If the collector is satisfied that the packages were properly stamped before removal from the factory and finds no evidence of fraud, he shall authorize immediate repacking in statutory quantities, in containers not before

used for that purpose. The repacking shall be done under supervision of a deputy.

(f) *Replacing stamps.*—The packages shall be held until the collector has forwarded the application, affidavits, and deputy's report to the Commissioner and received his approval to restamp the packages. The restamping shall be done under supervision of a deputy, who shall obtain a receipt for the stamps showing their number, denomination, and value. The receipt shall be forwarded to the Commissioner by the collector.

(g) *Prohibited at factory.*—The procedure indicated in this article is inapplicable to oleomargarine on factory premises, either prior or subsequent to original withdrawal, as to which see article 33.

ART. 33. REWORKING, DENATURING, REPACKING (AT FACTORY).—(a) *Manufacturer's own product.*—Oleomargarine to be reworked, or disposed of as grease or refuse, shall be dumped under the supervision of an internal-revenue officer, or an inspector of the United States Department of Agriculture. When disposed of as grease or refuse kerosene or another denaturant shall be added to the oleomargarine in the presence of the officer, to render it inedible.

(b) *Product of other manufacturers.*—Oleomargarine produced by one manufacturer may be received on the bonded factory premises of another manufacturer only for reworking or repacking. Repacking of the product at the factory or dumping thereof for reworking shall be witnessed by an officer or inspector as provided in (a) above. A manufacturer who repacks and sells oleomargarine produced by another manufacturer incurs liability as a wholesale dealer. (See section 3, Act of August 2, 1886.)

(c) *Official certificate.*—The officer under whose supervision oleomargarine is dumped or repacked, as in (a) or (b) above, shall execute a certificate in duplicate showing the date of dumping or repacking; the quantity dumped or repacked; that all stamps were completely removed from the containers and destroyed; and that an effective denaturant was added to oleomargarine dumped as grease or refuse. The supervising officer shall see that the transaction is properly debited on the manufacturer's record. (See article 24 (b) (5).)

Both copies of the certificate shall be delivered to the manufacturer, one to be attached to the monthly return, Form 216, and the other to be retained by the manufacturer.

(d) *Redemption of stamps.*—As to redemption of stamps, see article 90 (a).

CHAPTER V

WHOLESALE DEALERS IN OLEOMARGARINE

DEFINITION

Section 3, Act of August 2, 1886 (24 Stat. 200), as Amended by Section 2, Act of May 9, 1902 (32 Stat. 194)

* * * Wholesale dealers in oleomargarine shall pay four hundred and eighty dollars. Every person who sells or offers for sale oleomargarine in the original manufacturer's packages shall be deemed a wholesale dealer in oleomargarine. But any manufacturer of oleomargarine who has given the required bond and paid the required special tax, and who sells only oleomargarine of his own production, at the place of manufacture, in the original packages to which the tax-paid stamps are affixed, shall not be required to pay on account of such wholesale dealer in oleomargarine on account of such sales. * * * Provided further, That wholesale dealers who vend no other oleomargarine or butterine except that upon which a tax of one-fourth of one cent per pound is imposed * * * shall pay two hundred dollars; * * *

ART. 40. SPECIAL-TAX LIABILITY.—(a) *Preliminary requirements.*—A wholesale dealer shall make return on Form 11 to the collector, pay special tax, and comply with the provisions contained in Chapter VII, relating to special taxes. As to execution of returns, see article 93. As to penalty for nonpayment of special tax, see section 4, Act of August 2, 1886.

(b) *Rates of tax.*—Tax at the rate of \$480 a year covers sale by a wholesale dealer of both colored and uncolored oleomargarine taxed at 10 cents and $\frac{1}{4}$ of 1 cent a pound, respectively. A wholesale dealer who pays special tax at the rate of \$200 a year may sell only uncolored oleomargarine

and incurs liability to additional tax if he sells the colored product. (See article 90 (b) as to redemption of stamp covering the lower rate of tax.)

(c) *Liability for breaking package.*—A wholesale dealer shall sell original stamped packages only. (See section 6, Act of August 2, 1886, as amended.) A wholesale dealer who removes and sells oleomargarine from original stamped packages incurs liability to the \$1,000 penalty imposed by section 18, Act of August 2, 1886. If the quantity sold is less than 10 pounds, liability as a retail dealer is also incurred. (See section 3, Act of August 2, 1886.)

ART. 41. LIABILITY IN PARTICULAR SITUATIONS.—(a) *Place of sale.*—Liability to special tax as either a wholesale dealer or a retail dealer is incurred at each place other than the registered premises where oleomargarine is sold or offered for sale. As to retail dealers, see Chapter VI. The place of actual or constructive delivery transferring the ownership of the oleomargarine from the vendor to the vendee is regarded as the place of sale for which special tax is required to be paid. (See article 52 (b) as to itinerant vendors.)

(b) *Delivery orders.*—Sales to persons ordering oleomargarine, including c. o. d. orders, shall be absolutely completed at the registered place of business of the vendor or liability is incurred at each place where deliveries are made. Orders must be received at the vendor's registered premises, where the oleomargarine must be addressed and billed to and the sales recorded in the names of the persons ordering. The identical package sold at the vendor's registered place of business to the person ordering is the only package the vendor or his agent may deliver at another place without incurring liability at the place of delivery.

(c) *Sight draft orders.*—Where a bona fide order is received at the registered place of business of the vendor and the oleomargarine is there addressed and billed to the persons ordering, it may be shipped with a draft for the purchase money attached to the bill of lading. The bill of lading shall be indorsed specifically, and not in blank, to the person ordering, and the draft drawn on such person; otherwise the sale is completed and special-tax liability is incurred at the place of delivery.

(d) *Standing orders.*—Deliveries of oleo may be made as specified in a standing order accepted at the registered place of business of a manufacturer or dealer without incurring liability at the place of delivery. However, delivery of any other quantity than that specified in the standing order, whether more or less, constitutes a separate transaction not covered by the standing order, and is subject to (b) above.

(e) *Agents or brokers.*—A broker or agent may solicit orders for oleomargarine, receive a commission for his services, and make collections for the principal without becoming liable to special tax as a dealer, provided title to the oleomargarine does not vest in the agent or broker at any time. If the manufacturer or dealer bills the oleomargarine to the broker or agent, who in turn bills it to others, with or without profit, a second sale takes place, and the broker or agent incurs special-tax liability as a dealer at each place where he makes deliveries.

(f) *Resales.*—Before resale of original stamped packages of oleomargarine they shall be actually or constructively returned to the vendor's registered place of business, and the second sale there consummated before delivery. If the goods are picked up at the address of one customer and delivered to that of another before the resale is completed at the vendor's registered place of business, the resale occurs at the place of delivery and additional liability is incurred.

(g) *Delivery from warehouse.*—Tax-paid packages of oleomargarine may be stored in warehouses and delivered therefrom without incurring special-tax liability at the warehouse, provided the sales are completed at the vendor's registered place of business. The mere transmittal to, and the filling of the order at, the warehouse do not constitute a sale at the registered place of business. The oleomargarine must be billed to, and the sale recorded in the name of, the customer at the registered place of business before removal from the warehouse.

(h) *Prohibited storage.*—The storage of oleomargarine taxed at 10 cents a pound on the premises of a dealer who has not paid special tax as a dealer in colored oleomargarine, is prohibited.

(i) *Chain store warehouses.*—An operator of chain stores may store oleomargarine in warehouses operated by him, without incurring special-tax liability at the warehouses, provided no sales are made there and that the oleomargarine is distributed exclusively to stores operated by him, and not to stores of other operators.

(j) *Exemptions as wholesale dealer.*—Liability as a wholesale dealer is not incurred in the following situations:

(1) *Sales at factory.*—Where a manufacturer sells oleomargarine of his own production in statutory packages at the place of manufacture. (See section 3, Act of August 2, 1886.) As to manufacturer's liability as a retail dealer, see article 20(c).

(2) *Sales of left-over stock.*—Where a manufacturer who, having discontinued the business, directs a wholesale dealer holding his product to consign it to another wholesale dealer for sale on commission for the manufacturer's account.

(3) *Sales to secure charges.*—Where a warehouse sells oleomargarine to cover storage charges, or a transportation company to secure freight charges or salvage damaged merchandise. The quantity so sold and the name and address of the buyer shall be reported to the collector.

(4) *Sales to assignee.*—Where a retail dealer sells his stock of merchandise, including oleomargarine, to his successor.

(k) *Exporters.*—A person otherwise liable as a wholesale dealer is not exempt because transactions are for export only.

Section 6, Act of May 9, 1902 (32 Stat. 197)

That wholesale dealers in oleomargarine, * * * or adulterated butter shall keep such books and render such returns in relation thereto as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may, by regulation, require; and such books shall be open at all times to the inspection of any internal-revenue officer or agent. And any person who willfully violates any of the provisions of this section shall for each such offense be fined not less than fifty dollars and not exceeding five hundred dollars, and imprisoned not less than thirty days or more than six months.

ART. 42. RECORDS.—(a) *Manner of keeping.*—A wholesale dealer shall keep at his place of business separate records of colored and uncolored oleomargarine. If the record is kept as hereinafter prescribed in the dealer's own books or in other convenient form no other record will be necessary. The record should be kept in a neat and accurate manner, preserved at least four years, and be available at all times for inspection by internal-revenue officers. Care should be taken to exclude from the record any product other than tax-paid and branded oleomargarine.

Entry shall be made not later than the day following that on which the transaction occurred. Quantities reported shall be as indicated by the tax-paid stamps affixed to the packages, except that where goods are returned to or by the wholesaler the actual quantity shall be recorded. A fraction of a pound shall be accounted as a pound.

(b) *Items.*—The record must show:

(1) The number of pounds in each consignment of oleomargarine received, the name and address of the consignor, and the date of receipt.

(2) The number of pounds in each lot disposed of, the name of the consignee, the address to which delivered, and the date of shipment.

(c) *Transactions.*—The following rules will apply:

(1) *Samples.*—Sample packages of tax-paid oleomargarine received and disposed of gratuitously shall be recorded in the same manner as oleomargarine which is purchased and sold.

(2) *Transfers to self.*—Where oleomargarine is transferred by a wholesale dealer to himself as a retail dealer, the transaction shall be recorded in the same manner as a sale to another person.

(3) *Sales to chain stores.*—Where oleomargarine is shipped to one person doing business at different places, as

in the case of chain stores, the deliveries to each address shall be recorded separately.

(4) *Drop shipments.*—A wholesale dealer shall not record the receipt of oleomargarine which he orders delivered direct to a third party. The dealer's connection with the transaction shall be shown by the manufacturer as provided in article 24 (c) (4). Where a wholesale dealer receives an order from one person to ship oleomargarine to another, the transaction shall be recorded in the name and address of the consignee followed by "acc't of" and the name and address of the person giving the order. A wholesale dealer shall not record consignments in the names of agents, solicitors, or other persons transmitting orders for other parties. (See article 41 (e) as to liability of agents.)

(5) *Returned goods.*—Where oleomargarine is returned by a customer to a wholesale dealer the transaction shall be recorded separately from other receipts. The sale of repossessed goods shall be recorded with other disposals. Oleomargarine returned by a wholesale dealer to the manufacturer or other wholesale dealer from whom received shall be recorded separately from other disposals. (See article 41 (f) as to resales.)

ART. 43. MONTHLY RETURNS.—(a) *When required.*—A return for each month of the period of special-tax liability shall be made to the collector not later than the 15th of the month following. If the business is discontinued, the return for the month in which business ceases should be marked "Final."

(b) *Miscellaneous.*—Monthly returns should be prepared from the wholesale dealer's records and typewritten in duplicate on Form 217. The first page of the return should be filled out as indicated on the form. The return should be forwarded to the collector and the carbon duplicate retained at least four years and be available at all times for examination by internal-revenue officers.

(c) *Separate returns.*—One return shall be made for colored and another for uncolored oleomargarine. When preparing returns for colored oleomargarine the prefix "Un" in the word "Uncolored" at the head and in the oath should be stricken out.

(d) *Receipts.*—Under the heading, OLEOMARGARINE RECEIVED FROM MANUFACTURERS AND WHOLESALE DEALERS, page 1, Form 217, each entry shall show (1) date of invoice, (2) name and address of consignor, and (3) quantity in the consignment. Two or more shipments, even though received the same day, should not be covered by a single entry. It is important that each shipment be reported separately so that the quantities reported by the wholesale dealer from manufacturers and other wholesale dealers will correspond with the quantities which the manufacturers and wholesale dealers report consigned to him.

(e) *Returned goods.*—Oleomargarine returned by customers should not be entered in detail on returns. Only the total quantity so received during the month shall be reported. The amount should be entered on line 3 in the debit column of the summary.

(f) *Supplemental sheets.*—Form 217a is a supplemental sheet and shall be used for reporting disposals in detail. The entries should be double-spaced as indicated by the dotted lines on the sheet. Appropriate headings should be set up in capital letters in the center of the page. Each page should be completely used before beginning another page. The order indicated in paragraphs (g) to (n) below should be observed.

(g) *Disposals to wholesalers.*—Under a heading, DISPOSALS TO WHOLESALE DEALERS, each entry shall show (1) date of invoice, (2) name and address of consignee, and (3) quantity in the consignment. The entries shall be made in alphabetical order of consignees' names and all shipments to one consignee, in order of dates, reported before entering shipments to the next consignee.

(h) *Disposals to retailers and consumers.*—Under a heading, DISPOSALS TO RETAIL DEALERS AND CONSUMERS, the entries shall be grouped in alphabetical order of (1) the names of States and (2) the surnames of consignees in each State

group. State names should be in capital letters centered on the page at the head of each group, and a line left above and below each State subheading. The State name should be omitted in entering the several individual addresses since it will appear at the head of the group.

(i) *Registered names and addresses required.*—Names and addresses shall be entered as they appear on customers' special-tax stamps. Where the shipping address differs from the registered address, the name of the shipping point, in parentheses, should be entered with the registered address. (See article 54 (f).) Surnames should precede first names. County names should be included in the addresses of customers located in the States specified at the head of Form 217a.

(j) *Repeat shipments.*—Only the aggregate quantity disposed of to each person at one address during the month shall be reported. Example: If 20 sales of 10 pounds each were made, the name of the purchaser and the address to which delivered should be entered but once with the total of 200 pounds.

(k) *Chain store entries.*—Chain stores should be reported in alphabetical order of the names of (1) the cities or towns in which the stores are located and (2) the streets on which situated. Numerical order of street numbers should be observed where more than one store is located on the same street.

(l) *Goods returned or disposed of as grease.*—Under a heading RETURNED TO SHIPPER, each entry shall show (1) date of consignment, (2) name and address of consignee, and (3) quantity. Similar entries, under appropriate headings, shall be made for oleomargarine disposed of as grease, or for other inedible purposes, or destroyed.

(m) *Losses.*—Oleomargarine accidentally destroyed, lost in transit, or unaccounted for shall be reported on line 3 of the credit column of the summary and an appropriate explanation inserted.

(n) *Summary.*—The quantities entered under the respective headings shall be totaled and the totals carried to the proper lines of the summary, page 1, Form 217. The actual quantity on hand at the beginning and close of the month shall be entered in the summary, which should balance. The quantity reported on hand at the beginning of the month shall agree with the quantity reported on hand at the close of the preceding month.

(o) *Correcting entries.*—If after rendering a return it is found that any receipts or disposals were omitted or erroneously reported, correcting entries shall be made on the return for the following month.

(p) *Penalty for noncompliance.*—For willful violation of these regulations relating to wholesale dealers' records and returns, a fine of not less than \$50 or more than \$500 and imprisonment for not less than 30 days or more than 6 months, is provided by section 6, Act of May 9, 1902.

CHAPTER VI

RETAIL DEALERS IN OLEOMARGARINE

DEFINITION

Section 3, Act of August 2, 1886 (24 Stat. 209), as Amended by Section 2, Act of May 9, 1902 (32 Stat. 194)

* * * Retail dealers in oleomargarine shall pay forty-eight dollars. Every person who sells oleomargarine in less quantities than ten pounds at one time shall be regarded as a retail dealer in oleomargarine. * * * and such retail dealers as vend no other oleomargarine or butterine except that upon which is imposed by this Act, as amended, a tax of one-fourth of one cent per pound shall pay six dollars.

ART. 50. SPECIAL-TAX LIABILITY.—(a) *Preliminary requirements.*—A retail dealer shall make return on Form 11 to the collector, pay special tax, and comply with the provisions contained in Chapter VII, relating to special taxes. As to execution of returns, see article 93. As to penalty for non-payment of special tax, see section 4, Act of August 2, 1886.

(b) *Rates of tax.*—Tax at the rate of \$48 a year covers sale by retail of both colored and uncolored oleomargarine taxed at 10 cents and $\frac{1}{4}$ of 1 cent a pound, respectively.

A retail dealer who pays special tax at the rate of \$6 a year may sell only uncolored oleomargarine and incurs liability to additional tax if he sells the colored product. (See article 90 (b) as to redemption of stamp covering the lower rate of tax.)

Section 6, Act of August 2, 1886, Amended by Act of October 1, 1918, and Act of February 24, 1933 (47 Stat. 902)

* * * Retail dealers in oleomargarine must sell only from original stamped packages, in quantities not exceeding ten pounds, and shall pack or cause to be packed, the oleomargarine sold by them in suitable wooden, tin-plate, or paper packages which shall be marked and branded as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe. * * *

ART. 51. QUANTITY LIMITATION.—A retail dealer may sell not exceeding 10 pounds at one time taken from an original package or packages, but if he sells an original package of 10 pounds, he will incur liability as a wholesale dealer (see section 3, Act of August 2, 1886), and the \$1,000 penalty imposed by section 18 of the Act of August 2, 1886, for violation of section 6, above.

ART. 52. LIABILITY IN PARTICULAR SITUATIONS.—(a) *Dealers in other products.*—Dealers in butter and other persons who, knowingly or unknowingly, sell oleomargarine render themselves liable to tax as dealers in oleomargarine.

(b) *Itinerant vendors.*—A special-tax stamp can be issued only for a specific address or a fixed place of business. Peddlers, operators of so-called rolling stores, and other vendors who, traveling from place to place, sell oleomargarine incur liability to special tax as either a wholesale or retail dealer at each place where sales are made. (See article 41 (a) as to incurring liability at place of sale.)

(c) *Nontaxable situations.*—Special-tax liability as a dealer is not incurred in the following situations:

(1) *Eating places.*—Where proprietors of public eating places serve oleomargarine with meals, with or without special charge for it. Notice that oleomargarine is served need not be displayed or given in public eating places unless the law of the State requires it. As to liability of proprietors of public eating places who color oleomargarine, see article 21 (a) (2).

(2) *Pooling funds.*—Where a member of a pool formed for the purpose of purchasing oleomargarine remits the purchase money and individual orders to the vendor and distributes the goods to other members of the pool. (See article 41 (e) as to agents or brokers.)

ART. 53. TAXPAYERS OF SEVERAL CLASSES.—As to situations common to special-tax payers of several classes, or which may involve a person who has paid special tax as a retail dealer in additional liability, see article 21 (a) as to manufacturers, and article 41 as to wholesale dealers.

ART. 54. SELLING AND BUYING REQUIREMENTS.—(a) *Factory-branded packages.*—Except as may otherwise be required by State law or local regulation, oleomargarine packed by the manufacturer in cartons or wrappers, branded as prescribed in article 29, may be sold by a retail dealer from the original stamped container without further branding.

(b) *Branding upon sale.*—If the manufacturer's package is not subdivided into prints or rolls the retail dealer shall wrap the oleomargarine at the time of sale in a new covering, which shall be branded with his name and address, the word "Oleomargarine", and the net weight of the contents. Example:

RICHARD ROE
100 Doe Street, Boston
1 pound oleomargarine

The letters shall be not less than one-quarter of an inch square and printed in an ink which forms a strong contrast with the color of the covering. Other marks which would obscure the brand shall not be made. The covering shall be so placed around the oleomargarine that the brand will be plainly visible.

(c) *Misbranded packages.*—A retail dealer shall see that cartons and wrappers are branded as prescribed in article 29, as penalty provided in section 6, Act of August 2, 1886, is incurred if he sells an improperly branded package of oleo-

margarine. It will be no defense for a retail dealer to show, in an action for failure to properly brand, that the product was sold in cartons or wrappers as packed by the manufacturer. Penalty for buying improperly branded packages is provided by section 11, Act of August 2, 1886.

(d) *Removal from package.*—A retail dealer may not lawfully remove oleomargarine from the original stamped packages either for repacking, cutting into prints or rolls, or other purposes, nor remove the sides or ends of such packages, before disposal of the contents. If removed from original stamped packages in advance of sale the oleomargarine is subject to seizure for forfeiture. (See section 15, Act of August 2, 1886.)

(e) *Displaying packages.*—The top of a manufacturer's package may be removed or folded back to display the contents, provided the package is so placed that the word "Oleomargarine" will be plainly visible and not obscured or rendered inconspicuous. (See article 29 (b).)

(f) *Ordering.*—When ordering or purchasing oleomargarine a dealer shall state his name and address as they appear on his special-tax stamp. If a trade name, as well as the proprietor's real name, appears on the special-tax stamp, both shall be stated on the order. Oleomargarine shall not be ordered in a trade name that is not registered with the collector and stated on the dealer's special-tax stamp.

If the premises have two addresses, because fronting on two streets or for other reason, the address registered with the collector shall always be used. If oleomargarine is ordered for shipment to a point other than the dealer's registered address, the registered address, as well as the shipping point, shall be named in the order.

CHAPTER VII

SPECIAL TAXES

INTRODUCTORY

This chapter deals with miscellaneous administrative matters applicable to special taxes and governed by various sections of the revised and other statutes of the United States. The chapters enumerated below deal with matters relating to liabilities of the persons subject to the taxes set forth in this chapter.

Title	Chapter
Manufacturers of oleomargarine	IV
Wholesale dealers in oleomargarine	V
Retail dealers in oleomargarine	VI
Adulterated butter	X
Process or renovated butter	XII

Section 3, Act of August 2, 1886 (24 Stat. 209), as Amended by Section 2, Act of May 9, 1902 (32 Stat. 194)

* * * Manufacturers of oleomargarine shall pay six hundred dollars.

Wholesale dealers in oleomargarine shall pay four hundred and eighty dollars.

Retail dealers in oleomargarine shall pay forty-eight dollars. * * * And sections thirty-two hundred and thirty-two, thirty-two hundred and thirty-three, thirty-two hundred and thirty-four, thirty-two hundred and thirty-five, thirty-two hundred and thirty-six, thirty-two hundred and thirty-seven, thirty-two hundred and thirty-eight, thirty-two hundred and thirty-nine, thirty-two hundred and forty, thirty-two hundred and forty-one, and thirty-two hundred and forty-three of the Revised Statutes of the United States are, so far as applicable, made to extend to and include and apply to the special taxes imposed by this section, and to the persons upon whom they are imposed. * * * Provided further, That wholesale dealers who vend no other oleomargarine or butterine except that upon which a tax of one-fourth of one cent per pound is imposed by this Act, as amended, shall pay two hundred dollars; and such retail dealers as vend no other oleomargarine or butterine except that upon which is imposed by this Act, as amended, a tax of one-fourth of one cent per pound shall pay six dollars.

Section 4, Act of May 9, 1902 (32 Stat. 195)

* * * Manufacturers of process or renovated butter shall pay fifty dollars per year and manufacturers of adulterated butter shall pay six hundred dollars per year.

Wholesale dealers in adulterated butter shall pay a tax of four hundred and eighty dollars per annum, and retail dealers in adulterated butter shall pay a tax of forty-eight dollars per annum.

SPECIAL-TAX RATES

Classification	Annual rate	See article
Adulterated butter:		
Manufacturers.....	\$600	108
Retail dealers.....	48	114
Wholesale dealers.....	480	114
Oleomargarine (colored or yellow):		
Manufacturers.....	600	20
Retail dealers.....	48	50
Wholesale dealers.....	480	40
Oleomargarine (uncolored or white):		
Manufacturers.....	600	20
Retail dealers.....	6	50
Wholesale dealers.....	200	40
Process or renovated butter:		
Manufacturers.....	50	122
Retail dealers.....		127
Wholesale dealers.....		127

Section 3233, United States Revised Statutes

Every person engaged in any trade or business on which a special tax is imposed by law shall register with the collector of the district his name or style, place of residence, trade or business, and the place where such trade or business is to be carried on. In case of a firm or company, the names of the several persons constituting the same, and their places of residence, shall be so registered.

Section 3173, Revised Statutes, as Amended and Reenacted in Section 1018, Revenue Act of 1924 (43 Stat. 345)

It shall be the duty of any person, partnership, firm, association, or corporation, made liable to any special tax imposed by law, to make a return, verified by oath, to the collector or a deputy collector of the district where located, . . .

Section 3232, United States Revised Statutes

No person shall be engaged in or carry on any trade or business hereinafter mentioned until he has paid a special tax therefor in the manner hereinafter provided.

Section 3237, Revised Statutes, as Amended by Section 53, Act of October 1, 1890 (26 Stat. 624)

That all special taxes shall become due . . . on the first day of July in each year . . . or on commencing any trade or business on which such tax is imposed. In the former case the tax shall be reckoned for one year; and in the latter case it shall be reckoned proportionately, from the first day of the month in which the liability to a special tax commenced to the first day of July following. . . . And it shall be the duty of special tax payers to render their returns to the deputy collector at such times within the calendar month in which the special tax liability commenced as shall enable him to receive such returns, duly signed and verified, not later than the last day of the month, except in cases of sickness or absence, as provided for in section three thousand one hundred and seventy-six of the Revised Statutes.

Section 4, Act of August 2, 1886 (24 Stat. 209)

That every person who carries on the business of a manufacturer of oleomargarine without having paid the special tax therefor, as required by law, shall, besides being liable to the payment of the tax, be fined not less than one thousand and not more than five thousand dollars; and every person who carries on the business of a wholesale dealer in oleomargarine without having paid the special tax therefor, as required by law, shall, besides being liable to the payment of the tax, be fined not less than five hundred nor more than two thousand dollars; and every person who carries on the business of a retail dealer in oleomargarine without having paid the special tax therefor, as required by law, shall, besides being liable to the payment of the tax, be fined not less than fifty nor more than five hundred dollars for each and every offense.

Section 4, Act of May 9, 1902 (32 Stat. 195)

. . . That every person who carries on the business of a manufacturer of process or renovated butter or adulterated butter without having paid the special tax therefor, as required by law, shall, besides being liable to the payment of the tax, be fined not less than one thousand and not more than five thousand dollars; and every person who carries on the business of a dealer in adulterated butter without having paid the special tax therefor, as required by law, shall, besides being liable to the payment of the tax, be fined not less than fifty nor more than five hundred dollars for each offense.

ART. 60. REGISTRATION AND PAYMENT OF SPECIAL TAX.—(1) Registration as required by law is effected by filing, with the collector for the district in which the business is located, properly executed special-tax return, Form 11. (See article

93.) The return and the tax due must be in the hands of the collector on or before the last day of the month during which business is commenced.

(2) The tax year begins July 1 and ends June 30. Persons in business during any portion of a month are liable from the beginning of the month. Persons in business during the month of July must pay tax for the entire year. Persons commencing business during any other month must pay a proportionate part of the annual tax. For instance, one commencing business in October will pay for nine months. (See instructions on Form 11.)

(3) If the business is discontinued prior to the end of the tax year, the liability is not thereby reduced. (See second paragraph of article 90 (b).)

(4) Assessment of unpaid special tax will be made as provided in section 1109, Revenue Act of 1926, as amended.

Section 3176, United States Revised Statutes, as Amended by Section 1103, Revenue Act of 1926 (44 Stat. 112), and by Section 619 (d), Revenue Act of 1928 (45 Stat. 878)

. . . If the failure to file a return (other than a return of income tax, or a list is due to sickness or absence, the collector may allow such further time, not exceeding 30 days, for making and filing the return or list as he deems proper.

. . . In case of any failure to make and file a return or list within the time prescribed by law, or prescribed by the Commissioner of Internal Revenue or the collector in pursuance of law, the Commissioner shall add to the tax 25 per centum of its amount, except that when a return is filed after such time and it is shown that the failure to file it was due to a reasonable cause and not to willful neglect, no such addition shall be made to the tax. In case a false or fraudulent return or list is willfully made, the Commissioner shall add to the tax 50 per centum of its amount.

The amount so added to any tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, falsity, or fraud, in which case the amount so added shall be collected in the same manner as the tax.

Section 406, Revenue Act of 1935 (49 Stat. 1027)

In the case of failure to make and file an internal-revenue tax return required by law, within the time prescribed by law or prescribed by the Commissioner in pursuance of law, if the last date so prescribed for filing the return is after the date of the enactment of this Act, if a 25 per centum addition to the tax is prescribed by existing law, then there shall be added to the tax, in lieu of such 25 per centum: 5 per centum if the failure is for not more than 30 days, with an additional 5 per centum for each additional 30 days or fraction thereof during which failure continues, not to exceed 25 per centum in the aggregate.

Section 3184, United States Revised Statutes

Where it is not otherwise provided, the collector shall in person or by deputy, within ten days after receiving any list of taxes from the Commissioner of Internal Revenue, give notice to each person liable to pay any taxes stated therein, to be left at his dwelling or usual place of business, or to be sent by mail, stating the amount of such taxes and demanding payment thereof. If such person does not pay the taxes within ten days after the service or the sending by mail of such notice, it shall be the duty of the collector or his deputy to collect the said taxes with a penalty of five per centum additional upon the amount of taxes, and interest at the rate of one per centum a month.

Section 404, Revenue Act of 1935 (49 Stat. 1027)

Notwithstanding any provision of law to the contrary, interest accruing during any period of time after the date of the enactment of this Act upon any internal-revenue tax (including amounts assessed or collected as a part thereof) or customs duty, not paid when due, shall be at the rate of 6 per centum per annum.

ART. 61. AD VALOREM PENALTIES AND INTEREST FOR DELINQUENCY.—(a) *Delinquent returns.*—(1) *Penalties.*—Every person from whom a special-tax return is required who, without reasonable cause, fails to file such return within the month during which liability was incurred, is subject to certain penalties. Section 3176, R. S., as amended, imposes a 25 per cent penalty in all such cases. Section 3176 is in effect further amended by section 406 of the Revenue Act of 1935, approved August 30, 1935.

The rule as to special-tax returns, within the scope of these regulations, is that if the time prescribed for filing a return is prior to the month of August 1935 the penalty for delinquency is 25 per cent of the tax; but if the time prescribed for filing a return is during or subsequent to the

month of August 1935 the penalty for delinquency is 5 per cent, if the failure is for not more than 30 days, and an additional 5 per cent for each additional 30 days, or fraction thereof, during which the delinquency continues, not to exceed 25 per cent in the aggregate.

(2) *Sickness or absence.*—If the collector is satisfied that failure to file a return is due to sickness or absence, he may extend the time for not more than 30 days. Since any member of a firm may make the return, sickness or absence of less than all the members of a firm will not relieve from liability to the penalty for failure to make return, nor afford ground for extension of time.

(3) *Failure of agent.*—If an attorney or agent is delegated to make a return and pay special tax, the principal will incur the penalty if the return is not filed within the time prescribed by law.

(b) *Delinquent payment.*—(1) Failure to pay the amount of an assessment within 10 days after issuance of Form 17 (First Notice and Demand) causes to accrue a 5 per cent penalty and interest from the date of the expiration of the 10-day period to the date of payment, under the provisions of section 3184, R. S., as amended.

(2) If the 10-day period expires on or before August 30, 1935, the effective date of the Revenue Act of 1935, interest shall be computed at the rate of 1 per cent a month from the expiration of the 10-day period to and including August 30, 1935, and thereafter to date of payment at the rate of 6 per cent per annum, as provided by section 404 of the Revenue Act of 1935.

(3) If the 10-day period expires subsequent to August 30, 1935, interest shall be computed at the rate of 6 per cent per annum from the expiration of the 10-day period to the date of payment.

(4) Interest at the rate of 1 per cent a month shall be computed on the basis of a 30-day month, and interest at the rate of 6 per cent per annum shall be computed on the basis of 365 days to the year, or 366 days in a leap year.

ART. 62. FALSE RETURNS.—For making a false or fraudulent return additional liability amounting to 50 per cent of the total tax is incurred. If a return covers only a portion of a year or period for which liability is incurred, the return is false as a whole and not merely as to that portion of the year or period omitted. (See section 1114 (c), Revenue Act of 1926.)

Section 3234, United States Revised Statutes

Any number of persons doing business in copartnership at any one place shall be required to pay but one special tax.

ART. 63. PARTNERSHIPS.—Collectors will issue special-tax stamps to partnerships in the firm name and trade name, if any, but the stamps need not show the names of individual partners.

Section 3235, United States Revised Statutes

The payment of the special tax imposed shall not exempt from an additional special tax the person carrying on a trade or business in any other place than that stated in the collector's register; but nothing herein contained shall require a special tax for the storage of goods, wares, or merchandise in other places than the place of business, nor, except as herein-after provided, for the sale by manufacturers or producers of their own goods, wares, and merchandise, at the place of production or manufacture, and at their principal office or place of business, provided no goods, wares, or merchandise shall be kept except as samples at said office or place of business.

ART. 64. EACH PLACE TAXABLE.—Special tax shall be paid for each place of business, except that a manufacturer who pays special tax for the place of production may, without incurring additional liability, sell products of his own manufacture at his principal office or place of business, provided no products other than samples are kept there.

Section 3236, United States Revised Statutes

Whenever more than one of the pursuits or occupations hereinafter described are carried on in the same place by the same person at the same time, except as hereinafter provided, the tax shall be paid for each according to the rates severally prescribed.

ART. 65. EACH BUSINESS TAXABLE.—Where more than one taxable business is conducted by the same person at the

same address, special tax for each business must be paid. But as to manufacturers see articles 41 (f) (1) and 64.

Section 3238, United States Revised Statutes

All special taxes imposed by law, * * * shall be paid by stamps denoting the tax, and the Commissioner of Internal Revenue is required to procure appropriate stamps for the payment of such taxes; * * *

Section 3183, United States Revised Statutes, as Amended by Section 3, Act of March 1, 1879 (20 Stat. 331)

* * * And every collector and deputy collector shall give receipts for all sums collected by him, excepting only when the same are in payment for stamps sold and delivered; but no collector or deputy collector shall issue a receipt in lieu of a stamp representing a tax.

Section 3239, United States Revised Statutes

Every person engaged in any business, avocation, or employment, who is thereby made liable to a special tax shall place and keep conspicuously in his establishment or place of business all stamps denoting the payment of said special tax; and any person who shall, through negligence, fail to so place and keep said stamps, shall be liable to a penalty equal to the special tax for which his business rendered him liable, and the costs of prosecution; but in no case shall said penalty be less than ten dollars. And where the failure to comply with the foregoing provision of law shall be through willful neglect or refusal, then the penalty shall be double the amount above prescribed: *Provided*, That nothing in this section shall in any way affect the liability of any person for exercising or carrying on any trade, business, or profession, or doing any act for the exercising, carrying on, or doing of which a special tax is imposed by law, without the payment thereof.

ART. 66. SPECIAL-TAX STAMPS.—(a) *Issuance of stamps.*—Collectors will issue a special-tax stamp to the taxpayer upon receipt of a return on Form 11 accompanied by the amount of the tax. Collectors and their deputies are forbidden to issue receipts in lieu of special-tax stamps. A receipt may be furnished only pending issuance of a special-tax stamp.

(b) *Display of stamp.*—A special-tax payer shall conspicuously display his special-tax stamp on the premises where the business is operated. A taxpayer who neglects to display the stamp incurs liability to a penalty of \$10, or an amount equal to the tax if the tax is more than \$10, in addition to the costs of prosecution. If the failure is willful the penalty is doubled.

(c) *Loss of stamp.*—If a taxpayer loses his special-tax stamp, or if it is accidentally destroyed, he shall immediately notify the collector, who will issue a certificate of payment, Form 785, which must be displayed in lieu of the stamp. Unless a certificate is so obtained and displayed liability for failure to display special-tax stamp will be incurred. (See article 66(b).)

Section 3241, United States Revised Statutes

When any person who has paid the special tax for any trade or business dies, his wife or child, or executors or administrators or other legal representatives, may occupy the house or premises, and in like manner carry on, for the residue of the term for which the tax is paid, the same trade or business as the deceased before carried on, in the same house, and upon the same premises, without the payment of any additional tax. And when any person removes from the house or premises for which any trade or business was taxed to any other place, he may carry on the trade or business specified in the collector's register at the place to which he removes, without the payment of any additional tax.

Provided, That all cases of death, change, or removal, as aforesaid, with the name of the successor to any person deceased, or of the person making such change or removal, shall be registered with the collector, under regulations to be prescribed by the Commissioner of Internal Revenue.

ART. 67. CHANGE OF CONTROL.—(a) *Without additional liability.*—Certain persons other than the taxpayer may, without incurring additional liability, carry on the business at the same address and for the remainder of the period for which special tax was paid. To secure such right the party or parties continuing the business must execute, within 30 days, a return on Form 11, showing the basis of the right. As to liability for failure to register change, see article 69. Under the conditions indicated the parties having such right are as follows:

(1) *Death.*—The widow, children, or other legal representatives of a deceased taxpayer.

(2) *Insolvency*.—A receiver or referee in bankruptcy, or an assignee for the benefit of creditors.

(3) *Withdrawal from firm*.—The partner or partners remaining after death or withdrawal of a member.

(b) *Additional liability*.—Special tax, reckoned from the 1st day of the month in which the change occurs, is incurred and must be paid by the following parties under the conditions named:

(1) *Partnerships*.—Where additional partners are taken into a firm operating under the old or a new firm name.

(2) *New corporation*.—Where a corporation is formed to continue the business of a partnership, or a new charter is issued to a former corporation.

(3) *Stockholder*.—Where a stockholder or other party continues a business previously conducted by a corporation, whether or not the corporation is dissolved.

ART. 68. CHANGE OF NAME OR LOCATION.—(a) *Exemption from liability*.—The name of an individual, firm, or corporation that has paid special tax may be changed, or a special-tax payer may relocate his place of business, without incurring additional tax liability, provided the change is registered with the collector.

(b) *Registration*.—A special-tax payer who changes his name or relocates his place of business shall within 30 days execute a new return on Form 11, marked "Revised registry." The return shall set forth the date of change and the new name or address. The return shall be forwarded with the special-tax stamp to the collector who issued the stamp for recording the change.

(c) *Procedure by collector*.—(1) *Removal within district*.—Where a taxpayer removes his business to another address within the district the collector will enter on his Record 10 the new address and the date of removal, and will note the change on the face of the special-tax stamp which he will return to the taxpayer.

(2) *Removal to another district*.—Where a taxpayer removes his business to another district the collector who issued the stamp will enter on his record 10 the new address and date of removal, and will transmit the stamp to the collector of the district to which the taxpayer removed. The collector of that district will then make entry on his Record 10, as in the case of a new registrant, and note the taxpayer's new address and the collector's name, title, and district, and the date on the stamp, which will be returned to the taxpayer.

ART. 69. PENALTIES FOR FAILURE TO REGISTER CHANGE.—A person succeeding to a business for which tax has been paid, or a taxpayer who relocates his business, without registering the change within 30 days, as required by articles 67 and 68, respectively, will be liable to the tax, to the penalties set forth in article 61 for failure to make return, and also to penalty for carrying on business without payment of tax. (See section 4, Act of August 2, 1886, and section 4, Act of May 9, 1902, and article 22 (b).)

Section 1, Act of May 9, 1902 (32 Stat. 193)

* * * That all articles known as oleomargarine, butterine, imitation, process, renovated, or adulterated butter, or imitation cheese, or any substance in the semblance of butter or cheese not the usual product of the dairy and not made exclusively of pure and unadulterated milk or cream, transported into any State or Territory or the District of Columbia, and remaining therein for use, consumption, sale, or storage therein, shall, upon the arrival within the limits of such State or Territory or the District of Columbia, be subject to the operations and effect of the laws of such State or Territory or the District of Columbia, enacted in the exercise of its police powers to the same extent and in the same manner as though such articles or substances had been produced in such State or Territory or the District of Columbia, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

Section 3243, United States Revised Statutes

The payment of any tax imposed by the internal-revenue laws for carrying on any trade or business shall not be held to exempt any person from any penalty or punishment provided by the laws of any State for carrying on the same within such State, or in any manner to authorize the commencement or continuance of such trade or business contrary to the laws of such State or in places prohibited by municipal law; nor shall

the payment of any such tax be held to prohibit any State from placing a duty or tax on the same trade or business, for State or other purposes.

ART. 70. STATE LAWS APPLICABLE.—Payment of special tax under Federal law confers no right or privilege to conduct business contrary to State law. The holder of a special-tax stamp issued by the Federal Government may still be punishable under a State law prohibiting or regulating the manufacture or sale of oleomargarine. On the other hand, compliance with State law affords no immunity under Federal law. Persons who engage in business in violation of the law of a State are, nevertheless, required to pay special tax as imposed under the internal-revenue laws of the United States.

Section 3240, United States Revised Statutes, as Amended by Act of June 21, 1906 (34 Stat. 387)

Each collector of internal revenue shall, under regulations of the Commissioner of Internal Revenue, place and keep conspicuously in his office, for public inspection, an alphabetical list of the names of all persons who shall have paid special taxes within his district, and shall state thereon the time, place, and business for which such special taxes have been paid, and upon application of any prosecuting officer of any State, county, or municipality he shall furnish a certified copy thereof, as of a public record, for which a fee of one dollar for each one hundred words or fraction thereof in the copy or copies so requested may be charged.

ART. 71. PUBLIC RECORD OF TAXPAYERS.—The list of special-tax payers required by the foregoing statute shall be kept on Record 10, and may be inspected and copied in collectors' offices at such reasonable and proper times as not to interfere with the collector's use of it, or exclude other persons from inspecting it.

CHAPTER VIII

IMPORTATION AND EXPORTATION OF OLEOMARGARINE

RATE OF TAX

Section 10, Act of August 2, 1886 (24 Stat. 211)

That all oleomargarine imported from foreign countries shall, in addition to any import duty imposed on the same, pay an internal-revenue tax of fifteen cents per pound, such tax to be represented by coupon stamps as in the case of oleomargarine manufactured in the United States. * * *

PACKING AND STAMPING

Section 10, Act of August 2, 1886 (24 Stat. 211)

* * * The stamps shall be affixed and canceled by the owner or importer of the oleomargarine while it is in the custody of the proper customs officer; and the oleomargarine shall not pass out of the custody of said officer until the stamps have been so affixed and canceled, but shall be put up in wooden packages, each containing not less than ten pounds, as prescribed in this Act for oleomargarine manufactured in the United States, before the stamps are affixed; and the owner or importer of such oleomargarine shall be liable to all the penal provisions of this Act prescribed for manufacturers of oleomargarine manufactured in the United States. * * *

LIABILITY OF CUSTOMS OFFICERS

Section 10, Act of August 2, 1886 (24 Stat. 211)

* * * Whenever it is necessary to take any oleomargarine so imported to any place other than the public stores of the United States for the purpose of affixing and canceling such stamps, the collector of customs of the port where such oleomargarine is entered shall designate a bonded warehouse to which it shall be taken, under the control of such customs officer as such collector may direct; and every officer of customs who permits any such oleomargarine to pass out of his custody or control without compliance by the owner or importer thereof with the provision of this section relating thereto shall be guilty of a misdemeanor, and shall be fined not less than one thousand dollars nor more than five thousand dollars and imprisoned not less than six months nor more than three years. * * *

PENALTY FOR IMPROPER PACKING OR STAMPING

Section 10, Act of August 2, 1886 (24 Stat. 211)

* * * Every person who sells or offers for sale any imported oleomargarine, or oleomargarine purporting or claimed to have been imported, not put up in packages and stamped as provided by this Act shall be fined not less than five hundred dollars nor more than five thousand dollars and be imprisoned not less than six months nor more than two years.

ART. 80. IMPORTATION.—(a) *Requisition for stamps*.—Stamps for tax payment of imported oleomargarine will be

sold to the owner or importer only upon requisition (Customs Catalogue 3493) executed by an authorized customs officer. The requisition shall be presented to the internal-revenue collector of the district in which is located the customhouse where the entry is filed.

(b) *Affixing and canceling stamps.*—Before release from customs custody stamps shall be affixed and canceled by the owner or importer in the manner prescribed in article 31 (c) (d). The cancellation shall distinctly show the name of the owner or importer, port of entry, customs entry number, and date.

(c) *Packing and branding.*—Imported oleomargarine shall be packed in wooden or tin-plate containers of not less than 10 pounds each, as prescribed in article 28. Before removal from customs custody imported packages shall be branded in accordance with article 29, so far as applicable, the name of the country of origin, and the name and address of the importer to be substituted for the factory number, district, and State. The caution notice prescribed for packages of oleomargarine of domestic manufacture is not required.

Section 301, Tariff Act of 1930 (46 Stat. 686)

* * * That there shall be levied, collected, and paid, in the United States, upon articles, goods, wares, or merchandise coming into the United States from the Philippine Islands a tax equal to the internal-revenue tax imposed in the United States upon the like articles, goods, wares, or merchandise of domestic manufacture; such tax to be paid by internal-revenue stamp or stamps, to be provided by the Commissioner of Internal Revenue, and to be affixed in such manner and under such regulations as he, with the approval of the Secretary of the Treasury, shall prescribe;

ART. 81. PHILIPPINE RECEIPTS.—Oleomargarine coming into the United States from the Philippine Islands is taxable at the rate of one-fourth of 1 cent a pound for the white or uncolored product and 10 cents a pound for the yellow or colored product, in addition to any customs duty imposed thereon. The provisions contained in article 80 as to obtaining, affixing, and canceling stamps and package requirements, so far as applicable, shall apply to oleomargarine received from the Philippines.

Section 16, Act of August 2, 1886 (24 Stat. 212)

That oleomargarine may be removed from the place of manufacture for export to a foreign country without payment of tax or affixing stamps thereto, under such regulations and the filing of such bonds and other security as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe. Every person who shall export oleomargarine shall brand upon every tub, firkin, or other package containing such article the word "oleomargarine", in plain Roman letters not less than one-half inch square.

ART. 82. EXPORTATION.—(a) *Regulatory provisions.*—Oleomargarine may be exported free of tax as provided in Regulations 73 (as revised), copies of which may be obtained from a collector or the Commissioner of Internal Revenue. The manufacturer is required to furnish the collector with a bond, Form 549, and file application for withdrawal and entry for exportation, Form 550. As to exporters' liability as wholesale dealers, see article 41 (k).

(b) *Drawback.*—The law makes no provision for allowance of drawback upon exportation of tax-paid oleomargarine.

(c) *Consumption aboard vessel.*—Oleomargarine for consumption aboard a vessel while in a port of the United States or en route to a foreign country shall be tax-paid.

(d) *Packing and branding.*—Before removal from the factory each statutory package shall be branded as prescribed in section 16, Act of August 2, 1886, above. Inner packages, which may be of wood, metal, paper, or other material, shall contain not less than one-half pound each and shall be branded with the word "Oleomargarine" in plain gothic letters of at least 20-point type, the brand to measure not less than 3½ inches in length. The brand may be lithographed on inner packages of tin or printed on a label affixed to the tin.

Section 314, Act of September 21, 1922 (42 Stat. 941)

That upon the reimportation of articles once exported, of the growth, product, or manufacture of the United States, upon which no internal tax has been assessed or paid, or upon which such tax has been paid and refunded by allowance or drawback, there shall be levied, collected, and paid

a duty equal to the tax imposed by the internal revenue laws upon such articles, except articles manufactured in bonded warehouses and exported pursuant to law, which shall be subject to the same rate of duty as if originally imported, but proof of the identity of such articles shall be made under general regulations to be prescribed by the Secretary of the Treasury.

ART. 83. REIMPORTATION.—Oleomargarine exported free of tax, when reimported, is subject to a customs duty equal to the tax. Customs inspection stamps shall be affixed to all packages of reimported oleomargarine to denote payment of duty. Internal-revenue stamps are not required on reimported packages to which customs inspection stamps have been affixed.

CHAPTER IX

GENERAL PROVISIONS

Act of May 12, 1900 (31 Stat. 177), as Amended by Section 1013 (a) of the Revenue Act of 1924 (43 Stat. 343)

That the Commissioner of Internal Revenue, subject to regulations prescribed by the Secretary of the Treasury, may, upon receipt of satisfactory evidence of the facts, make allowance for or redeem such of the stamps, issued under authority of law, to denote the payment of any internal-revenue tax, as may have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or for which the owner may have no use, or, which through mistake may have been improperly or unnecessarily used, or where the rates or duties represented thereby have been excessive in amount, paid in error, or in any manner wrongfully collected. Such allowance or redemption may be made, either by giving other stamps in lieu of the stamps so allowed for or redeemed, or by refunding the amount or value to the owner thereof, deducting therefrom, in case of repayment, the percentage, if any, allowed to the purchaser thereof; but no allowance or redemption shall be made in any case until the stamps so spoiled or rendered useless shall have been returned to the Commissioner of Internal Revenue, or until satisfactory proof has been made showing the reason why the same can not be returned; or, if so required by the said Commissioner, when the person presenting the same can not satisfactorily trace the history of said stamps from their issuance to the presentation of his claim as aforesaid:

Provided further, That no claim for the redemption of or allowance for stamps shall be allowed unless presented within four years after the purchase of such stamps from the Government.

SEC. 2. That the finding of facts in and the decision of the Commissioner of Internal Revenue upon the merits of any claim presented under or authorized by this Act shall, in the absence of fraud or mistake in mathematical calculation, be final and not subject to revision by any accounting officer.

ART. 90. REDEMPTION OF STAMPS.—(a) *Commodity tax stamps.*—Stamps received from the Government in such condition that the purchaser can not use them may be exchanged by the collector for usable stamps of the same quantity and denomination. Stamps may be redeemed if (1) rendered useless by sticking together after receipt by the purchaser; (2) used in excess of the amount required; or (3) the owner has no use for them.

Stamps on packages sold or removed from the factory can not be redeemed if afterwards the oleomargarine became damaged or unmerchantable, or was reworked or disposed of as grease. But see article 32 (Repacking and restamping) and article 33 (Reworking, denaturing, repacking).

(b) *Special-tax stamps.*—Where two stamps covering respectively colored and uncolored oleomargarine are issued to the same taxpayer for the same address, the stamp for the sale of uncolored oleomargarine is redeemable provided the full period thereof is covered by the stamp for the sale of colored oleomargarine. (See articles 40 (b) and 50 (b).)

If business is discontinued before the end of the taxable year the part of the special-tax stamp for the unexpired portion of the tax-paid period can not be redeemed. (See article 60 (3).)

(c) *Authority for redemption.*—The authority for redemption of or allowance for internal-revenue stamps is the Act of May 12, 1900, as amended. (See above.) Sections 3220 and 3228, R. S., are generally inapplicable.

ART. 91. CLAIMS FOR STAMPS.—A claim prepared by the taxpayer on Form 843 and accompanied by the stamps must be presented to the collector within four years after the stamps were purchased. The date of purchase, if known, must be

shown. If the date of purchase is unknown the claim must show whether the stamps were purchased within four years preceding the date of filing the claim. If the stamps can not be submitted with the claim they shall be exhibited to an internal-revenue representative, who will write on them: "Claim for refund filed." A statement from the representative showing that he made the notation and the circumstances requiring such procedure must accompany the claim.

Section 3220, United States Revised Statutes, as Amended by Section 1111 of the Revenue Act of 1926 (44 Stat. 115) and Section 619 (b) of the Revenue Act of 1926 (45 Stat. 878)

Except as otherwise provided by law in the case of income, war-profits, excess-profits, estate, and gift taxes, the Commissioner of Internal Revenue, subject to regulations prescribed by the Secretary of the Treasury, is authorized to remit, refund, and pay back all taxes erroneously or illegally assessed or collected, all penalties collected without authority, and all taxes that appear to be unjustly assessed or excessive in amount, or in any manner wrongfully collected; also to repay to any collector or deputy collector the full amount of such sums of money as may be recovered against him in any court, for any internal-revenue taxes collected by him, with the cost and expenses of suit; also all damages and costs recovered against any assessor, assistant assessor, collector, deputy collector, agent, or inspector, in any suit brought against him by reason of anything done in the due performance of his official duty, and shall make report to Congress at the beginning of each regular session of Congress of all transactions under this section.

Section 3228 (a), United States Revised Statutes, as amended by Section 1112 of the Revenue Act of 1926 (44 Stat. 115), Section 619 (c) of the Revenue Act of 1926 (45 Stat. 878), and Section 1106 (a) of the Revenue Act of 1932 (47 Stat. 287)

All claims for the refunding or crediting of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty alleged to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected must, except as otherwise provided by law in the case of income, war-profits, excess-profits, estate, and gift taxes, be presented to the Commissioner of Internal Revenue within four years next after the payment of such tax, penalty, or sum. The amount of the refund (in the case of taxes other than income, war-profits, excess-profits, estate, and gift taxes) shall not exceed the portion of the tax, penalty, or sum paid during the four years immediately preceding the filing of the claim, or if no claim was filed, then during the four years immediately preceding the allowance of the refund.

Section 1106 (b) of the Revenue Act of 1932 (47 Stat. 287)

The amendment made by subsection (a) of this section to section 3228 of the Revised Statutes shall not bar from allowance a claim for refund filed prior to the enactment of this Act which but for such enactment would have been allowable.

ART. 92. REFUNDS.—(a) Special tax and penalty.—Claims for refund of special taxes and penalties, paid as the result of an assessment without issuance of stamps, are governed by sections 3220 and 3228, R. S., as amended, above. Such claims shall be made on Form 843 and filed with the collector within four years after payment of the tax or penalty. (See article 91 as to claims for redemption of stamps.)

(b) Compromise offers.—Refunds of amounts paid as compromise offers can not be made where the offers have been accepted, notwithstanding it may subsequently be established that no liability was actually incurred.

Section 3173, United States Revised Statutes, as Amended by Section 1317, Act of February 24, 1919 (40 Stat. 1146)

It shall be the duty of any person, * * * made liable to * * * tax * * * to make a list or return, * * * according to the forms and regulations to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. * * *

ART. 93. EXECUTION OF RETURNS.—(a) Signatures.—Special tax and monthly returns required by these regulations shall be executed as follows:

(1) **Sole proprietorship.**—The returns of a sole proprietorship shall be signed by the proprietor himself.

(2) **Partnership.**—The returns of a partnership shall be signed by a member, who shall affix the firm's name and below it sign his own name and designate his capacity.

(3) **Corporation.**—The returns of a corporation shall be signed by a duly authorized officer or agent, who shall affix

the corporation's name and below it sign his own name and designate his title. The corporate seal, if any, shall be affixed.

(4) **Authorized agent.**—If the taxpayer desires to delegate the signing of returns to another, the manager of a branch house, or other agent, may sign returns, provided a power of attorney, in duplicate, authorizing the agent to execute returns, is furnished the collector. An agent shall sign the name of the person, firm, or corporation for which he is authorized to act and below it sign his own name and designate his capacity.

(5) **Names and addresses.**—Where a business is operated in a trade name, both the real name and the trade name of the proprietor shall be used when executing special-tax return, Form 11. Monthly returns, Forms 216 and 217, shall be executed in conformity with the special-tax return and special-tax stamp. If the special-tax return and stamp show a trade name as well as the real name of the proprietor, both names shall likewise appear on the monthly returns.

The identical address of the premises as given on the special-tax return and special-tax stamp shall also be used to designate the taxpayer's place of business on monthly returns.

(b) **Oaths.**—The jurat may be executed by any officer authorized to administer oaths. No charge is made if special-tax and monthly returns are sworn and subscribed to before a deputy collector or an internal-revenue agent.

Section 3173, United States Revised Statutes, Amended by Section 1317, Act of February 24, 1919 (40 Stat. 1146)

* * * And if any person, on being notified * * *, shall refuse or neglect to render such * * * return within the time required * * *, or whenever any person * * * fails to do so at the time required, or delivers any return which, * * * is erroneous, false, or fraudulent, * * *, or refuses to allow any regularly authorized Government officer to examine the books of such person, * * * it shall be lawful for the collector to summon such person, * * * having possession, custody, or care of books * * *, to appear before him and produce such books * * *, and to give testimony or answer interrogatories, under oath, respecting any * * *, returns * * *

Section 3176, United States Revised Statutes, Amended by Section 1103, Revenue Act of 1926 (44 Stat. 112)

If any person, corporation, company, or association fails to make and file a return or list at the time prescribed by law or by regulation made under authority of law, or makes, willfully or otherwise, a false or fraudulent return or list, the collector or deputy collector shall make the return or list from his own knowledge and from such information as he can obtain through testimony or otherwise. In any such case the Commissioner of Internal Revenue may, from his own knowledge and from such information as he can obtain through testimony or otherwise, make a return or amend any return made by a collector or deputy collector. Any return or list so made and subscribed by the Commissioner, or by a collector or deputy collector and approved by the Commissioner, shall be prima facie good and sufficient for all legal purposes. * * *

ART. 94. PREPARATION OF RETURNS BY REVENUE OFFICER.—If a person who has incurred liability to special tax fails or refuses to render returns (special-tax or monthly) within the time prescribed by these regulations, or by the Commissioner, the returns shall be made by an internal-revenue officer. Such action by an officer will not relieve the delinquent from liability for his failure to make returns. (See article 61 as to penalties.)

Section 1104, Revenue Act of 1926, Amended by Section 618, Revenue Act of 1928 (45 Stat. 878)

The Commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making a return where none has been made, is hereby authorized, by any officer or employee of the Bureau of Internal Revenue, including the field service, designated by him for that purpose, to examine any books, papers, records, or memoranda bearing upon the matters required to be included in the return, and may require the attendance of the person rendering the return or of any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take his testimony with reference to the matter required by law to be included in such return, with power to administer oaths to such person or persons.

ART. 95. LAW ENFORCEMENT.—(a) Authority to examine records.—The Commissioner may specifically authorize any internal-revenue officer or employee to examine the records required by these regulations, and demand the production of any other records for the purpose of determining whether liability to tax was incurred, or whether the provisions of these regulations have been observed.

(b) Canvass of districts.—Each collector is charged with the enforcement of all the laws and regulations concerning the collection of internal-revenue taxes in his district, and with the prevention, detection, and punishment of fraud. Section 3172, R. S., as amended, provides that each collector shall require deputies to thoroughly canvass his district from time to time for objects of taxation. Section 3164, R. S., as amended, makes it the duty of each collector to report willful violations of law to the United States attorney for the appropriate district.

Section 3177, United States Revised Statutes

Any collector, deputy collector, or inspector may enter, in the daytime, any building or place where any articles or objects subject to tax are made, produced, or kept, within his district, so far as it may be necessary for the purpose of examining said articles or objects. And any owner of such building or place, or person having the agency or superintendence of the same, who refuses to admit such officer, or to suffer him to examine such article or articles, shall, for every such refusal, forfeit five hundred dollars. And when such premises are open at night, such officers may enter them while so open, in the performance of their official duties. And if any person shall forcibly obstruct or hinder any collector, deputy collector, or inspector, in the execution of any power and authority vested in him by law, or shall forcibly rescue or cause to be rescued any property, articles, or objects after the same shall have been seized by him, or shall attempt or endeavor so to do, the person so offending, excepting in cases otherwise provided for, shall, for every such offense, forfeit and pay the sum of five hundred dollars, or double the value of the property so rescued, or be imprisoned for a term not exceeding two years, at the discretion of the court.

Section 3152, United States Revised Statutes, Amended by Section 2, Act of March 1, 1879 (20 Stat. 329)

* * * The Commissioner of Internal Revenue may, whenever in his judgment the necessities of the service so require, employ competent agents, * * * and he may, at his discretion, assign any such agent to duty under the direction of any officer of internal revenue, or to such other special duty as he may deem necessary: * * *

The agents whose employment is authorized by this section shall be known and designated as internal-revenue agents, and they shall have all the powers of entry and examination conferred upon any officer of internal revenue, by sections thirty-one hundred and seventy-seven, * * * of the Revised Statutes; * * *

And all the provisions of sections thirty-one hundred and sixty-seven, thirty-one hundred and sixty-eight, thirty-one hundred and sixty-nine, and thirty-one hundred and seventy-one of the Revised Statutes shall apply to internal-revenue agents as fully as to internal-revenue officers. * * *

Section 3462, United States Revised Statutes, Amended by Section 289, Act of March 3, 1911 (36 Stat. 1167)

The several judges of the district courts of the United States, and the United States commissioners, may, within their respective jurisdictions, issue a search warrant, authorizing any internal revenue officer to search any premises within the same, if such officer makes oath in writing that he has reason to believe, and does believe, that a fraud upon the revenue has been or is being committed upon or by the use of the said premises.

ART. 96. RIGHT OF ENTRY.—(a) Authority.—Each collector, deputy collector, or inspector within his district, or any internal-revenue agent, is authorized by law to enter any premises for the purpose of examining taxable merchandise produced or stored there. Unless the premises are open at night, entry may be made only during the day.

(b) Search warrant.—A private home may be entered only under authority of a search warrant. As to issuance

¹ Of the several sections of the Revised Statutes referred to in section 3152, section 3167 appears hereinafter; section 3168 provides for punishment of internal-revenue officers interested in the manufacture or production of specified articles; section 3169 provides for punishment of internal-revenue officers for various offenses; and section 3171 authorizes suits for damages by internal-revenue officers and others.

of search warrants in internal-revenue cases, see section 3462, R. S., above.

(c) Factory inspection.—Each factory where oleomargarine, adulterated butter, or process or renovated butter is made will be periodically inspected by an internal-revenue officer. He will record his name and the date of his inspection in the manufacturer's record and submit a report on the condition of the factory to the collector. If an internal-revenue officer is denied admission to the premises, or refused permission to make an adequate inspection, the facts should be reported to the Commissioner.

Section 3167, United States Revised Statutes, as Amended and Reenacted Without Change by Section 1115, Revenue Act of 1926 (44 Stat. 117)

It shall be unlawful for any collector, deputy collector, agent, clerk, or other officer or employee of the United States to divulge or to make known in any manner whatever not provided by law to any person the operations, style of work, or apparatus of any manufacturer or producer visited by him in the discharge of his official duties, * * *; and any offense against the foregoing provision shall be a misdemeanor and be punished by a fine not exceeding \$1,000 or by imprisonment not exceeding one year, or both, at the discretion of the court; and if the offender be an officer or employee of the United States he shall be dismissed from office or discharged from employment.

ART. 97. ILLEGAL DIVULGENCE.—A collector may furnish inquirers with a monthly statement showing the amount received from sales of stamps in his district, but no information from which could be determined the output or operations of any individual manufacturer will be divulged.

Section 15, Act of August 2, 1886 (24 Stat. 212)

* * * all oleomargarine intended for human consumption which contains ingredients adjudged, as hereinbefore provided, to be deleterious to the public health, shall be forfeited to the United States. * * *

ART. 98. DELETERIOUS OLEOMARGARINE.—(a) Seizure.—Oleomargarine suspected of containing ingredients deleterious to the public health shall be seized by the collector, who shall immediately forward samples to the Commissioner for examination, as provided in article 13.

(b) Appeal from decision.—If the owner of the product disputes the decision of the Commissioner, he may appeal to a board composed of the Surgeon General of the Army, the Surgeon General of the Navy, and the Secretary of Agriculture. An appeal shall be presented to the collector, who will forward it to the Commissioner, by whom it will be transmitted to the board, together with the samples and record of the case. The decision of the board shall be final and will be transmitted to the owner of the product by the Commissioner through the collector.

(c) Disposition.—Deleterious oleomargarine forfeited to the United States may be destroyed by the collector upon authorization from the Commissioner; or it may be sold, provided that before delivery to the purchaser each package is conspicuously stamped with the following statement in letters at least an inch square: "Condemned as unfit for human consumption and deleterious to the public health."

ART. 99. SALES BY LEGAL PROCESS.—(a) Packing, branding, stamping.—When oleomargarine which has been abandoned, forfeited, or seized under warrant of distraint is sold for the benefit of the United States, with or without an order of court; or when sold by a sheriff, constable, or other officer under any writ, execution, or process or order of any court, the officer making the sale shall, before delivery, see that the product is properly packed and that each package bears the required brand, stamps, and caution notice. If it is necessary to attach stamps, or to cancel stamps already affixed, the cancellation shall show the name and title of the officer and the date.

(b) Payment of tax.—Where sales of unstamped oleomargarine are to be made for the benefit of the United States the officer will ascertain, by obtaining informal bids or otherwise, whether the merchandise will sell for an amount equal to the tax. If it will not, the officer shall report the facts to the Commissioner, who will issue instructions as to the disposition of the product. The report shall state the history

of the case, the quantity and condition of the goods, and what efforts were made to sell them for an amount equal to the tax.

(1) *Application for stamps.*—If an amount equal to the tax is, or will be, realized, application for stamps shall be made by the officer to the internal-revenue collector of the district where the sale was, or will be, made. The application shall show the quantity of each class of oleomargarine sold, or to be sold, and the amount realized or expected from the sale. The application shall be supported by a certified copy of the order of the court or officer who authorized the sale.

(2) *Collector to supply stamps.*—If the collector is satisfied that the sale was, or will be, authorized and made for the benefit of the United States, and that the proceeds were, or will be, equal to the tax, he shall supply the necessary stamps and obtain a receipt from the officer. The application and receipt for the stamps and a certified copy of the order of the court or officer shall be forwarded to the Commissioner so that proper credit may be allowed the collector for the stamps.

(c) *Officer to purchase stamps.*—If a sale is not made for the benefit of the United States, the sheriff, constable, or other officer making the sale shall purchase the required stamps from the internal-revenue collector of the district.

(d) *Accounting procedure.*—The procedure as to obtaining and accounting for stamps, and as to accounting for proceeds of sales of material distrained upon, shall be in accordance with instructions issued to collectors covering such situations.

SELLING OLEOMARGARINE IMPROPERLY PACKED, BRANDED, OR STAMPED

Section 6, Act of August 2, 1886, as Amended by Act of February 24, 1933 (47 Stat. 902)

* * * Every person who knowingly sells or offers for sale, or delivers or offers to deliver, any oleomargarine in any other form than in new wooden, tin-plate, or paper packages as above described, or who packs in any package any oleomargarine in any manner contrary to law, or who falsely brands any package or affixes a stamp on any package denoting a less amount of tax than that required by law shall be fined for each offense not more than \$1,000 and be imprisoned not more than two years.

PURCHASE OF OLEOMARGARINE IMPROPERLY BRANDED OR STAMPED

Section 11, Act of August 2, 1886 (24 Stat. 211)

That every person who knowingly purchases or receives for sale any oleomargarine which has not been branded or stamped according to law shall be liable to a penalty of fifty dollars for each such offense.

PURCHASE OF OLEOMARGARINE FROM UNQUALIFIED MANUFACTURERS

Section 12, Act of August 1886 (24 Stat. 211)

That every person who knowingly purchases or receives for sale any oleomargarine from any manufacturer who has not paid the special tax shall be liable for each offense to a penalty of one hundred dollars, and to a forfeiture of all articles so purchased or received, or of the full value thereof.

FAILURE TO DESTROY STAMPS WHEN PACKAGE IS EMPTIED

Section 13, Act of August 2, 1886 (24 Stat. 211)

That whenever any stamped package containing oleomargarine is emptied, it shall be the duty of the person in whose hands the same is to destroy utterly the stamps thereon; and any person who willfully neglects or refuses so to do shall for each such offense be fined not exceeding fifty dollars, and imprisoned not less than ten days nor more than six months. * * * Any revenue officer may destroy any emptied oleomargarine package upon which the tax-paid stamp is found.

TRAFFICKING IN EMPTY STAMPED PACKAGES

Section 13, Act of August 2, 1886 (24 Stat. 211)

* * * And any person who fraudulently gives away or accepts from another, or who sells, buys, or uses for packing oleomargarine, any such (empty) stamped package, shall for each such offense be fined not exceeding one hundred dollars, and be imprisoned not more than one year. * * *

REFILLING EMPTY STAMPED PACKAGES

Section 13, Act of August 2, 1886 (24 Stat. 211)

* * * And any person who * * * uses for packing oleomargarine any such (empty) stamped box, shall for each such offense be fined not exceeding one hundred dollars, and be imprisoned not more than one year. * * *

PACKAGES WITHOUT STAMPS OR MARKS

Section 15, Act of August 2, 1886 (24 Stat. 212)

That all packages of oleomargarine subject to tax under this act that shall be found without stamps or marks as herein provided, * * * shall be forfeited to the United States. * * *

REMOVAL OR DEFACEMENT OF STAMPS, MARKS, OR BRANDS

Section 15, Act of August 2, 1886 (24 Stat. 212)

* * * Any person who shall willfully remove or deface the stamps, marks, or brands on a package containing oleomargarine taxed as provided herein shall be guilty of a misdemeanor, and shall be punished by a fine of not less than one hundred dollars nor more than two thousand dollars, and by imprisonment for not less than thirty days nor more than six months.

EVASION OF COMMODITY TAX

Section 17, Act of August 2, 1886 (24 Stat. 212)

That whenever any person engaged in carrying on the business of manufacturing oleomargarine defrauds, or attempts to defraud, the United States of the tax on the oleomargarine produced by him, or any part thereof, he shall forfeit the factory and manufacturing apparatus used by him, and all oleomargarine and all raw material for the production of oleomargarine found in the factory and on the factory premises, and shall be fined not less than five hundred dollars nor more than five thousand dollars, and be imprisoned not less than six months nor more than three years.

PENALTY FOR OFFENSES NOT OTHERWISE PUNISHABLE

Section 18, Act of August 2, 1886 (24 Stat. 212)

That if any manufacturer of oleomargarine, any dealer therein, or any importer or exporter thereof shall knowingly or willfully omit, neglect, or refuse to do, or cause to be done, any of the things required by law in the carrying on or conducting of his business, or shall do anything by this Act prohibited, if there be no specific penalty or punishment imposed by any other section of this Act for the neglecting, omitting, or refusing to do, or for the doing or causing to be done, the thing required or prohibited, he shall pay a penalty of one thousand dollars; and if the person so offending be the manufacturer of or a wholesale dealer in oleomargarine, all the oleomargarine owned by him, or in which he has any interest as owner, shall be forfeited to the United States.

RECOVERY OF PENALTIES AND FORFEITURES

Section 19, Act of August 2, 1886 (24 Stat. 212)

That all fines, penalties, and forfeitures imposed by this Act may be recovered in any court of competent jurisdiction.

REMOVAL OR CONCEALMENT OF COMMODITIES

Section 3450, United States Revised Statutes

Whenever any goods or commodities for or in respect whereof any tax is or shall be imposed, or any materials, utensils, or vessels proper or intended to be made use of for or in the making of such goods or commodities are removed, or are deposited or concealed in any place, with intent to defraud the United States of such tax, or any part thereof, all such goods and commodities, and all such materials, utensils, and vessels, respectively, shall be forfeited; and in every such case all the casks, vessels, cases, or other packages whatsoever, containing, or which shall have contained, such goods or commodities, respectively, and every vessel, boat, cart, carriage, or other conveyance whatsoever, and all horses or other animals, and all things used in the removal or for the deposit or concealment thereof, respectively, shall be forfeited.

And every person who removes, deposits, or conceals, or is concerned in removing, depositing, or concealing any goods or commodities for or in respect whereof any tax is or shall be imposed, with intent to defraud the United States of such tax or any part thereof, shall be liable to a fine or penalty of not more than five hundred dollars. * * *

POSSESSION OF PROPERTY WITH FRAUDULENT INTENT

Section 3452, United States Revised Statutes

Every person who shall have in his custody or possession any goods, wares, merchandise, articles, or objects on which taxes are imposed by law, for the purpose of selling the same in fraud of the internal-revenue laws, or with design to avoid payment of the taxes imposed thereon, shall be liable to a penalty of five hundred dollars or not less than double the amount of taxes fraudulently attempted to be evaded.

SEIZURE AND FORFEITURE

Section 3453, United States Revised Statutes

All goods, wares, merchandise, articles, or objects, on which taxes are imposed, which shall be found in the possession, or custody, or within the control of any person, for the purpose of being sold or removed by him in fraud of the internal-revenue laws, or with design to avoid payment of said taxes, may be seized by the collector or deputy collector of the proper district, or by such other collector or deputy collector

as may be specially authorized by the Commissioner of Internal Revenue for that purpose, and shall be forfeited to the United States. And all raw materials found in the possession of any person intending to manufacture the same into articles of a kind subject to tax for the purpose of fraudulently selling such manufactured articles, or with design to evade the payment of said tax; and all tools, implements, instruments, and personal property whatsoever, in the place or building, or within any yard or inclosure where such articles or raw materials are found, may also be seized by any collector or deputy collector, as aforesaid, and shall be forfeited as aforesaid. The proceedings to enforce such forfeitures shall be in the nature of a proceeding in rem in the circuit court or district court of the United States for the district where such seizure is made.

SALES WITH FRAUDULENT INTENT

Section 3454, United States Revised Statutes

Whenever any person who is liable to pay any tax upon any goods, wares, or merchandise, sells or causes or allows the same to be sold before the tax is paid to which said property is liable, with intent to avoid such tax or in fraud of the internal-revenue laws, any debt contracted in such sales, and any security given therefor, unless the same shall have been bona fide transferred to an innocent holder, shall be void, and the collection thereof shall not be enforced in any court. And if such goods, wares, or merchandise have been paid for, in whole or in part, the sum so paid shall be deemed forfeited, and any person who shall sue for the same in an action of debt shall recover from the seller the amount so paid, one-half to his own use and the other half to the use of the United States.

FORFEITURE OF CONTAINERS

Section 3457, United States Revised Statutes

In every case where any goods or commodities are forfeited under any internal-revenue law, all casks, vessels, cases, or other packages whatsoever, containing, or which shall have contained such goods or commodities, respectively, shall be forfeited.

DELIVERY OF SEIZED GOODS

Section 3458, United States Revised Statutes

Any goods, wares, merchandise, articles, or objects which may be seized, under the provisions of section thirty-four hundred and fifty-three, by any collector or deputy collector, may, at the option of the collector, be delivered to the marshal of the district, and remain in the care and custody and under the control of said marshal, until he shall obtain possession by process of law. And the cost of seizure made before process issues shall be taxable by the court. * * *

BONDING SEIZED GOODS

Section 3459, United States Revised Statutes

When any property which is seized under the foregoing provisions of section thirty-four hundred and fifty-three is liable to perish or become greatly reduced in price or value by keeping, or when it can not be kept without great expense, the owner thereof, or the marshal of the district, may apply to the collector of the district to examine it; and if, in the opinion of the said collector, it shall be necessary that the said property should be sold to prevent such waste or expense, he shall appraise the same; and thereupon the owner shall have said property returned to him upon giving bond in such form as may be prescribed by the Commissioner of Internal Revenue, and in an amount equal to the appraised value, with such sureties as the collector shall deem good and sufficient, to abide the final order, decree, or judgment of the court having cognizance of the case, and to pay the amount of said appraised value to the collector, marshal, or otherwise, as he may be ordered and directed by the court, which bond shall be filed by said collector with the United States district attorney for the district in which said proceedings in rem may be commenced: *Provided*, That in case said bond shall have been executed and the property returned before seizure thereof by virtue of the process aforesaid, the marshal shall give notice of pendency of proceedings in court to the parties executing said bond, by personal service or publication, and in such manner and form as the court may direct, and the court shall thereupon have jurisdiction of said matter and parties in the same manner as if such property had been seized by virtue of the process aforesaid. But if said owner shall neglect or refuse to give said bond, the collector shall issue to a deputy collector or to the marshal aforesaid an order to sell the same; and the deputy collector or marshal shall thereupon advertise and sell the said property at public auction in the same manner as goods may be sold on final execution in said district; and the proceeds of the sale, after deducting the reasonable costs of the seizure and sale, shall be paid to the court aforesaid, to abide its final order, decree, or judgment.

SEIZED GOODS VALUED AT NOT MORE THAN \$500

Section 3460, United States Revised Statutes

In all cases of seizure of any goods, wares, or merchandise, as being subject to forfeiture under any provision of the in-

ternal-revenue laws, which, in the opinion of the collector or deputy collector making the seizure, are of the appraised value of five hundred dollars or less, the said collector or deputy collector shall, except in cases otherwise provided, proceed as follows:

First. He shall cause a list containing a particular description of the goods, wares, or merchandise seized to be prepared in duplicate, and an appraisal thereof to be made by three sworn appraisers, to be selected by him, who shall be respectable and disinterested citizens of the United States residing within the collection-district wherein the seizure was made. Said list and appraisal shall be properly attested by the said collector or deputy collector and the said appraisers, for which service each of the said appraisers shall be allowed the sum of one dollar and fifty cents a day, to be paid in the manner provided by law for other necessary charges of collectors.

Second. If the said goods are found by the said appraisers to be of the value of five hundred dollars or less, the said collector or deputy collector shall publish a notice for three weeks, in some newspaper of the district where the seizure was made, describing the articles, and stating the time, place, and cause of their seizure, and requiring any person claiming them to appear and make such claim within thirty days from the date of the first publication of such notice.

Third. Any person claiming the goods, wares, or merchandise so seized, within the time specified in the notice, may file with the said collector or deputy collector a claim, stating his interest in the articles seized, and may execute a bond to the United States in the penal sum of two hundred and fifty dollars, with sureties to be approved by the said collector or deputy collector, conditioned that, in case of condemnation of the articles so seized, the obligors shall pay all the costs and expenses of the proceedings to obtain such condemnation; and upon the delivery of such bond to the collector or deputy collector, he shall transmit the same, with the duplicate list or description of the goods seized, to the United States district attorney for the district, and said attorney shall proceed thereon in the ordinary manner prescribed by law.

Fourth. If no claim is interposed and no bond is given within the time above specified, the collector or deputy collector, as the case may be, shall give ten days' notice of the sale of the goods, wares, or merchandise by publication, and, at the time and place specified in the notice, shall sell the articles so seized at public auction, and, after deducting the expense of appraisal and sale, he shall deposit the proceeds to the credit of the Secretary of the Treasury.

FRAUDULENT CLAIMS

Section 35 of the Criminal Code of the United States, as Amended by the Act of June 18, 1934 (48 Stat. 996)

Whoever shall make or cause to be made or present or cause to be presented, for payment or approval, to or by any person or officer in the civil, military, or naval service of the United States, or any department thereof, or any corporation in which the United States of America is a stockholder, any claim upon or against the Government of the United States, or any department or officer thereof, or any corporation in which the United States of America is a stockholder, knowing such claim to be false, fictitious, or fraudulent; or whoever shall knowingly and willfully falsify or conceal or cover up by any trick, scheme, or device a material fact, or make or cause to be made any false or fraudulent statements or representations, or make or use or cause to be made or used any false bill, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition, knowing the same to contain any fraudulent or fictitious statement or entry, in any matter within the jurisdiction of any department or agency of the United States or of any corporation in which the United States of America is a stockholder; or whoever shall take and carry away or take for his own use, or for the use of another, with intent to steal or purloin, or shall willfully injure or commit any depredation against, any property of the United States, or any branch or department thereof, or any corporation in which the United States of America is a stockholder, or any property which has been or is being made, manufactured, or constructed under contract for the War or Navy Departments of the United States; or whoever shall enter into any agreement, combination, or conspiracy to defraud the Government of the United States, or any department or officer thereof, or any corporation in which the United States of America is a stockholder, by obtaining or aiding to obtain the payment or allowance of any false or fraudulent claim; and whoever, having charge, possession, custody, or control of any money or other public property used or to be used in the military or naval service, with intent to defraud the United States, or any department thereof, or any corporation in which the United States of America is a stockholder, or willfully to conceal such money or other property, shall deliver or cause to be delivered to any person having authority to receive the same any amount of such money or other property less than that for which he received a certificate or took a receipt; or whoever, being authorized to make or deliver any certificate, voucher, receipt, or other paper certifying the receipt of arms, ammunition, provisions, clothing, or other property so used or to be used, shall make or deliver the same to any other person without a full knowledge of the truth of the facts stated therein and with intent to

defraud the United States, or any department thereof, or any corporation in which the United States of America is a stockholder, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. And whoever shall purchase, or receive in pledge, from any person any arms, equipment, ammunition, clothing, military stores, or other property furnished by the United States, under a clothing allowance or otherwise, to any soldier, sailor, officer, cadet, or midshipman in the military or naval service of the United States or of the National Guard or Naval Militia, or to any person accompanying, serving, or retained with the land or naval forces and subject to military or naval law, having knowledge or reason to believe that the property has been taken from the possession of the United States or furnished by the United States under such allowance, shall be fined not more than \$500 or imprisoned not more than two years, or both.

PENALTY FOR AID IN MAKING FALSE RETURNS

Section 1114 (c), Revenue Act of 1926 (44 Stat. 116)

Any person who willfully aids or assists in, or procures, counsels, or advises, the preparation or presentation under, or in connection with any matter arising under, the internal-revenue laws, of a false or fraudulent return, affidavit, claim, or document, shall (whether or not such falsity or fraud is with the knowledge or consent of the persons authorized or required to present such return, affidavit, claim, or document) be guilty of a felony and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

CHAPTER X

ADULTERATED BUTTER

DEFINITION

Section 4, Act of May 9, 1902 (32 Stat. 194)

* * * "adulterated butter" is hereby defined to mean a grade of butter produced by mixing, reworking, reurning in milk or cream, refining, or in any way producing a uniform, purified, or improved product from different lots or parcels of melted or unmelted butter or butter fat, in which any acid, alkali, chemical, or any substance whatever is introduced or used for the purpose or with the effect of deodorizing or removing therefrom rancidity, or any butter or butter fat with which there is mixed any substance foreign to butter as herein defined, with intent or effect of cheapening in cost the product or any butter in the manufacture or manipulation of which any process or material is used with intent or effect of causing the absorption of abnormal quantities of water, milk, or cream; * * *

Section 1, Act of August 2, 1886 (24 Stat. 209)

* * * That for the purposes of this Act, the word "butter" shall be understood to mean the food product usually known as butter, and which is made exclusively from milk or cream, or both, with or without common salt, and with or without additional coloring matter.

ART. 100. BUTTER DEFINED.—(1) Section 4 of the Act of May 9, 1902, makes the definition of butter contained in section 1 of the Act of August 2, 1886, above, applicable to the 1902 Act relating to adulterated butter.

(2) Butter churned and worked in accordance with approved standards, and with quality as a prime object, contains not more than 16 per cent moisture. As defined by the Food and Drugs Act of March 4, 1923, butter contains not less than 80 per cent, by weight, of milk fat, allowance being made for all tolerances. When butter contains a smaller quantity of milk fat or more than 16 per cent moisture, a strong presumption is raised that the product is adulterated butter within the meaning of the statute.

ART. 101. ADULTERATED BUTTER CLASSIFIED.—Adulterated butter may be divided into three classes, namely:

(1) Butter in any way produced from different lots of melted or unmelted butter, or butter fat, to which a substance has been added for the purpose of removing rancidity or deodorizing it, except butter made from sour cream the acid of which has been reduced with lime water before churning.

(2) Butter or butter fat with which is mixed any substance foreign to butter as defined by law, for the purpose of reducing the cost of the product. This does not include mixtures taxable as oleomargarine. (For definition of oleomargarine, see section 2, Act of August 2, 1886, as amended; also article 104.)

(3) Butter manufactured or manipulated by any process or with any material resulting in the absorption of abnormal

quantities of water, milk, or cream. Emulsified or milk-blended butter comes within this class.

ART. 102. PRESERVATIVES.—Butter to which a harmless preservative has been added solely for the purpose of preservation, is not subject to tax as adulterated butter, provided the quantity is not larger than is absolutely necessary to preserve it. If the preservative is used as a bath or wash in working or renovating it, the product will be subject to tax as adulterated butter.

ART. 103. LADLED BUTTER.—The product commonly known as "ladled butter" is taxable as adulterated butter if a process within the definition of adulterated butter (see article 101) is used. As to taxability of ladled butter as renovated butter, see article 120 (3).

ART. 104. FOREIGN INGREDIENTS.—The addition of any foreign fat, lard, or oil to butter, no matter how small the quantity, renders the product subject to tax as oleomargarine. (See section 2, Act of August 2, 1886.)

Section 4, act of May 9, 1902 (32 Stat. 196)

* * * That upon adulterated butter, when manufactured or sold or removed for consumption or use, there shall be assessed and collected a tax of ten cents per pound, to be paid by the manufacturer thereof, and any fractional part of a pound shall be taxed as a pound. * * *

ART. 105. COMMODITY TAX.—The tax upon adulterated butter accrues upon manufacture or sale or removal from the place of manufacture. The tax shall be paid by the manufacturer by affixing stamps to the packages before they are removed from the bonded premises. If, however, the Commissioner deems it necessary, he may require the attachment of stamps, or may assess the tax, at any time after manufacture. A fraction of a pound is taxable as a pound. Adulterated butter may be withdrawn tax free for export. (See article 117 and Regulations 73.)

ART. 106. BUTTER SUBJECT TO SAMPLING.—Butter which is not branded as adulterated butter, or as process or renovated butter, will be presumed to be genuine butter unless a test discloses it to be taxable. Internal-revenue officers will periodically take samples of butter as provided in article 107, and submit them, as provided in article 13 (a), to the Commissioner, under whose direction tests will be made. The Commissioner's decision as to the taxability of the product sampled will be based upon the tests and legal definitions of adulterated butter, and process or renovated butter, and will be administratively final. (See section 14, Act of August 2, 1886.)

ART. 107. SAMPLING REQUIREMENTS.—(a) *Method*.—The following rules for sampling butter will apply:

(1) Two drawings with a standard butter trier will be made of tub or solid-packed butter. The instrument will be run diagonally from top to bottom of the package. The two drawings will be from opposite sides. The cores withdrawn will be cut into lengths of 2 or 3 inches each. The alternate lengths should be combined into a sample which should weigh approximately half a pound, and the remaining lengths should be used to close the apertures in the package.

(2) A sample will be taken from every package of each lot. However, (A) if a lot includes two or more packages from one churning, a sample may be taken from one package only; or (B) if the separate churnings are not indicated, not less than one sample from each 10 tubs may be taken, provided, as to either situation, the manufacturer agrees in writing to pay the tax on the entire lot if the test discloses it to be taxable. Additional samples may be taken if circumstances suggest such action.

(3) A 1-pound sample will be taken from each package of print butter.

(b) *Release pending tests*.—If the butter is not deleterious, the stamp tax may be paid pending the outcome of the tests, and the product released for reworking to legal condition under internal-revenue supervision. If the tests show all or part of the butter not to be adulterated, a claim for refund of the tax paid in excess may be filed.

(c) *Resampling*.—Application for resampling butter sampled in accordance with these regulations will not be entertained.

Section 4, Act of May 9, 1902 (32 Stat. 195)

* * * Manufacturers of adulterated butter shall pay six hundred dollars per year. Every person who engages in the production of * * * adulterated butter as a business shall be considered to be a manufacturer thereof. * * * That every person who carries on the business of a manufacturer of * * * adulterated butter without having paid the special tax therefor, as required by law, shall, besides being liable to the payment of the tax, be fined not less than one thousand and not more than five thousand dollars; * * *

ART. 108. MANUFACTURERS' SPECIAL-TAX LIABILITY.—A manufacturer shall make return on Form 11 to the collector, pay special tax, and comply with the provisions contained in Chapter VII, relating to special taxes. As to execution of returns, see article 93.

Section 4, Act of May 9, 1902 (32 Stat. 195)

* * * That every manufacturer of * * * adulterated butter shall file with the collector of internal revenue of the district in which his manufactory is located such notices, inventories, and bonds, shall keep such books and render such returns of material and products, shall put up such signs and affix such number of his factory, and conduct his business under such surveillance of officers and agents as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulation require. But the bond required of such manufacturer shall be with sureties satisfactory to the collector of internal revenue, and in a penal sum of not less than five hundred dollars; and the sum of said bond may be increased from time to time and additional sureties required at the discretion of the collector or under instructions of the Commissioner of Internal Revenue. * * *

ART. 109. ADMINISTRATIVE REQUIREMENTS.—(a) *Provisions applicable.*—The provisions of these regulations as to oleomargarine manufacturers' notices (article 22), inventories (article 23), records (article 24), returns (article 25), factories (article 26), bonds (article 27), sales by legal process (article 99), and all other provisions of these regulations relating to oleomargarine, so far as applicable, are hereby extended and made to apply to adulterated butter.

(b) *Penal sum of bond.*—The penal sum of the bond required of a manufacturer of adulterated butter shall be not less than \$500.

Section 4, Act of May 9, 1902, Amended by Section 2, Act of February 24, 1933 (47 Stat. 902)

* * * That all adulterated butter shall be packed by the manufacturer thereof in firkins, tubs, or other wooden, tin-plate, or paper packages not before used for that purpose, containing, or encased in a manufacturer's package made from any of such materials of, not less than ten pounds, and marked, stamped, and branded as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, and all sales made by manufacturers of adulterated butter shall be in original, stamped packages. * * * Every person who knowingly sells or offers for sale, or delivers or offers to deliver, any adulterated butter in any other form than in new wooden, tin-plate or paper packages as above described, or who packs in any package any adulterated butter in any manner contrary to law, or who falsely brands any package or affixes a stamp on any package denoting a less amount of tax than that required by law, shall be fined for each offense not more than one thousand dollars and be imprisoned not more than two years. * * *

ART. 110. PACKAGES.—The provisions of article 28 as to manufacturers' packages of oleomargarine, so far as applicable, are hereby extended and made to apply to packages of adulterated butter. (See penalty for refilling containers provided by section 13, Act of August 2, 1886.)

ART. 111. BRANDING.—(a) *Statutory packages.*—Before removal from the factory the words "Adulterated Butter", the factory number, district, and State, and the gross, tare, and net weights shall be legibly printed or stenciled on one of the sides or top of each package of adulterated butter in the following manner:

ADULTERATED BUTTER

Factory No. 2, 2d Dist., New York

64-4-60

The words "Adulterated Butter" shall be in bold-face gothic letters not less than three-quarters of an inch high, and the other letters and figures not less than one-half inch high. The color of the brand shall be in strong contrast to that of the package.

(b) *For export.*—When manufactured expressly for export in accordance with specifications of foreign customers, a product coming within the classification of adulterated butter, as defined in the Act of May 9, 1902, may be branded "Preserved Butter" in lieu of "Adulterated Butter", provided such labeling does not violate the laws of the country to which the product is exported, or the Food and Drugs Act of June 30, 1906, as amended, or any other Act, or regulations issued under authority thereof by the United States Department of Agriculture.

(c) *Cartons and wrappers.*—The provisions of article 29, relating to branding oleomargarine cartons and wrappers, so far as applicable, are hereby extended and made to apply to cartons and wrappers in which adulterated butter is packed.

(d) *Penalty for misbranding.*—For falsely branding any package of adulterated butter a fine of not more than \$1,000 and imprisonment for not more than two years is provided by section 4, Act of May 9, 1902.

Section 4, Act of May 9, 1902, Amended by Section 2, Act of February 24, 1933 (47 Stat. 902)

* * * That every manufacturer of adulterated butter shall securely affix, by pasting, on each package containing adulterated butter manufactured by him, a label on which shall be printed, besides the number of the manufactory and the district and State in which it is situated, these words: "Notice.—That the manufacturer of the adulterated butter herein contained has complied with all the requirements of law. Every person is cautioned not to use either this package again or the stamp thereon, nor to remove the contents of this package without destroying said stamp, under the penalty provided by law in such cases." Every manufacturer of adulterated butter who neglects to affix such label to any package containing adulterated butter made by him, or sold or offered for sale for or by him, and every person who removes any such label so affixed from any such package shall be fined fifty dollars for each package in respect to which such offense is committed. * * *

ART. 112. CAUTION NOTICE.—The provisions of article 30 as to affixing caution notice to manufacturers' packages of oleomargarine, so far as applicable, are hereby extended and made to apply to packages of adulterated butter.

Section 4, Act of May 9, 1902 (32 Stat. 196)

* * * The tax to be levied by this section shall be represented by coupon stamps, and the provisions of existing laws governing engraving, issuing, sale, accountability, effacement, and destruction of stamps relating to tobacco and snuff, as far as applicable, are hereby made to apply to the stamps provided by this section. * * *

ART. 113. STAMPING PACKAGES.—The provisions of article 31 as to ordering, affixing, and canceling stamps, and of article 32 as to repacking and restamping oleomargarine, so far as applicable, are hereby extended and made to apply to adulterated butter.

Section 4, Act of May 9, 1902 (32 Stat. 195), Amended by the Act of February 24, 1933 (47 Stat. 903)

* * * Wholesale dealers in adulterated butter shall pay a tax of four hundred and eighty dollars per annum, and retail dealers in adulterated butter shall pay a tax of forty-eight dollars per annum. Every person who sells adulterated butter in less quantities than ten pounds at one time shall be regarded as a retail dealer in adulterated butter.

Every person who sells adulterated butter shall be regarded as a dealer in adulterated butter. * * * and every person who carries on the business of a dealer in adulterated butter without having paid the special tax therefor, as required by law, shall, besides being liable to the payment of the tax, be fined not less than fifty nor more than five hundred dollars for each offense. * * *

* * * Dealers in adulterated butter must sell only original or from original stamped packages, and when such original stamped packages are broken the adulterated butter sold from same shall be placed in suitable wooden, tin-plate or paper packages, which shall be marked and branded as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe. * * *

ART. 114. DEALERS' SPECIAL-TAX LIABILITY.—(a) *Preliminary requirements.*—A return on Form 11 shall be made to the collector by each wholesale and each retail dealer in adulterated butter, who will pay special tax and comply with the provisions contained in Chapter VII, relating to special taxes. As to execution of returns, see article 93.

(b) *Dealers classified.*—A dealer who sells 10 pounds or more at one time is a wholesale dealer in adulterated butter.

A wholesale dealer shall sell original stamped packages only. A dealer who sells at one time less than 10 pounds is a retail dealer in adulterated butter. A retail dealer shall sell from original packages only.

ART. 115. WHOLESALE DEALERS' RECORDS AND RETURNS.—Articles 42 and 43 as to records and returns of wholesale dealers in oleomargarine shall apply, so far as applicable, to wholesale dealers in adulterated butter. (See section 6, Act of May 9, 1902.)

ART. 116. RESTRICTIONS ON SALES.—Article 20 (b) (c) as to liability of manufacturers as wholesale or retail dealers, article 41 as to liability of wholesale dealers in particular situations, article 52 as to liability of retail dealers in particular situations, article 54 as to selling and buying requirements, and all other articles of these regulations relating to oleomargarine manufacturers and dealers, so far as applicable, are hereby extended and made to apply to sales of adulterated butter.

Section 4, Act of May 9, 1902 (32 Stat. 195)

* * * That the provisions of sections nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, and twenty-one of "An Act defining butter, also imposing a tax upon and regulating the manufacture, sale, importation, and exportation of oleomargarine", approved August second, eighteen hundred and eighty-six, shall apply to manufacturers of "adulterated butter" to an extent necessary to enforce the marking, branding, identification, and regulation of the exportation and importation of adulterated butter.

ART. 117. OLEOMARGARINE PROVISIONS APPLICABLE TO ADULTERATED BUTTER.—The sections of the Act of August 2, 1886, extended to adulterated butter are as follows:

Section of Act	Subject
9	Assessment of commodity tax (article 14).
10	Importation (article 80): Rate of tax. Packing and stamping. Liability of customs officers. Penalty for improper packing or stamping.
11	Purchase of oleomargarine improperly branded or stamped.
12	Purchase of oleomargarine from unqualified manufacturers.
13	Failure to destroy stamps when package is emptied. Trafficking in empty stamped packages. Refilling empty stamped packages.
14	Disputed classification of product (article 13).
15	Packages without stamps or marks. Removal or defacement of stamps, marks, or brands. Deleterious oleomargarine (article 98).
16	Exportation (article 82).
17	Evasion of commodity tax.
18	Penalty for offenses not otherwise punishable.
19	Recovery of penalties and forfeitures.
20	Authority for regulations.
21	Temporary provisions.

CHAPTER XI

AUTHORITY FOR REGULATIONS

Section 321, United States Revised Statutes

The Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, shall have general superintendence of the assessment and collection of all duties and taxes now or hereafter imposed by any law providing internal revenue; and shall prepare and distribute all the instructions, regulations, forms, blanks, stamps, and other matters pertaining to the assessment and collection of internal revenue; * * *

Section 20, Act of August 2, 1886 (24 Stat. 212)

That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may make all needful regulations for the carrying into effect of this Act.

Section 3447, United States Revised Statutes

Whenever the mode or time of assessing or collecting any tax which is imposed is not provided for, the Commissioner of Internal Revenue may establish the same by regulation. He may also make all such regulations, not otherwise provided for, as may have become necessary by reason of any alteration of law in relation to internal revenue.

ART. 118. PROMULGATION OF REGULATIONS.—In accordance with the authority granted by the law, the foregoing regu-

lations relating to oleomargarine and adulterated butter are hereby promulgated.

GUY T. HELVERING,

Commissioner of Internal Revenue.

Approved, April 11, 1936.

WAYNE C. TAYLOR,

Acting Secretary of the Treasury.

CHAPTER XII

PROCESS OR RENOVATED BUTTER

DEFINITION

Section 4, Act of May 9, 1902 (32 Stat. 195)

* * * "process butter" or "renovated butter" is hereby defined to mean butter which has been subjected to any process by which it is melted, clarified, or refined and made to resemble genuine butter, always excepting "adulterated butter" as defined by this Act. * * *

ART. 120. DEFINITION APPLIED.—(1) The terms "process butter" and "renovated butter" are used synonymously in these regulations and it is immaterial, for the purposes of the Acts cited herein, whether a manufacturer designates the product "process butter" or "renovated butter."

(2) Butter which falls within the definition of adulterated butter (see article 101) is subject to tax as adulterated butter rather than as process or renovated butter. The principal difference between adulterated butter and process or renovated butter is with respect to the use of chemicals or other substances. Butter reworked with the use of chemicals or other substances is adulterated. Butter which is melted, clarified, or refined without the use of chemicals or other substances is process or renovated butter.

(3) Ladled butter is taxable as process or renovated butter if, in addition to being reworked, it is melted, clarified, or refined. By the term "ladled butter" is meant butter reworked by mixing or stirring, usually for the purpose of obtaining uniformity of color, and not melted, and softened no more than necessary to facilitate mixing or stirring. Provided the butter is not melted, cleansing of ladled butter by washing with water or otherwise than by use of chemicals or other substances will not give the butter the status of process or renovated butter or adulterated butter. "Melted" as herein used means such melting as is distinguishable by the Waterhouse test.

For definitions of "butter" and "adulterated butter" see section 1, Act of August 2, 1886, and section 4, Act of May 9, 1902, respectively.

Section 4, Act of May 9, 1902 (32 Stat. 195)

* * * that upon process or renovated butter, when manufactured or sold or removed for consumption or use, there shall be assessed and collected a tax of one-fourth of one cent per pound to be paid by the manufacturer thereof, and any fractional part of a pound shall be taxed as a pound. * * *

ART. 121. COMMODITY TAX.—The tax on process or renovated butter accrues upon manufacture or sale or removal from the place of manufacture. The tax shall be paid by the manufacturer by affixing stamps to the packages before they are removed from the bonded premises. If, however, the Commissioner deems it necessary, he may require the attachment of stamps, or may assess the tax, at any time after manufacture. A fraction of a pound is taxable as a pound.

The law makes no provision for exporting process or renovated butter free of tax.

Section 4, Act of May 9, 1902 (32 Stat. 195)

* * * Manufacturers of process or renovated butter shall pay fifty dollars per year * * *. Every person who engages in the production of process or renovated butter * * * as a business shall be considered to be a manufacturer thereof. * * * That every person who carries on the business of a manufacturer of process or renovated butter * * * without having paid the special tax therefor, as required by law, shall, besides being liable to the payment of the tax, be fined not less than one thousand and not more than five thousand dollars; * * *

ART. 122. MANUFACTURERS' SPECIAL-TAX LIABILITY.—A manufacturer shall make return on Form 11 to the collector, pay special tax, and comply with the provisions contained in Chapter VII, relating to special taxes. As to execution of returns, see article 93.

Section 4, Act of May 9, 1902 (32 Stat. 195)

* * * That every manufacturer of process or renovated butter * * * shall file with the collector of internal revenue of the district in which his manufactory is located such notices, inventories, and bonds, shall keep such books and render such returns of material and products, shall put up such signs and affix such number of his factory, and conduct his business under such surveillance of officers and agents as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulations require. But the bond required of such manufacturer shall be with sureties satisfactory to the collector of internal revenue, and in a penal sum of not less than five hundred dollars; and the sum of said bond may be increased from time to time and additional sureties required at the discretion of the collector or under instructions of the Commissioner of Internal Revenue. * * *

ART. 123. ADMINISTRATIVE REQUIREMENTS.—(a) *Provisions applicable.*—The provisions of these regulations as to oleomargarine manufacturers' notices (article 22), inventories (article 23), records (article 24), returns (article 25), factories (article 26), bonds (article 27), sales by legal process (article 99), and all other provisions of these regulations relating to oleomargarine, so far as applicable, are hereby extended and made to apply to process or renovated butter.

(b) *Penal sum of bond.*—The penal sum of the bond required of a manufacturer of process or renovated butter shall be not less than \$500.

ART. 124. PACKAGES.—(a) *Bulk containers.*—Manufacturers shall pack process or renovated butter in firkins, tubs, or other wooden, fiber, or paper containers. Except when packed for export (see article 131), packages shall not be incased in jute, burlap, or other heavy wrapping.

(b) *Empty containers.*—When any tax-paid packages of process or renovated butter are emptied, the stamps must be destroyed as provided in section 13, Act of August 2, 1886, relating to oleomargarine.

(c) *Prints and rolls.*—Manufacturers may pack process or renovated butter in prints or rolls and place them in paper cartons or wrappers, or containers of tin or similar material, sealed hermetically or otherwise, provided the coverings are branded as provided in article 128 (b).

ART. 125. CAUTION NOTICE.—Before removal from the factory each statutory package of process or renovated butter must have legibly and conspicuously printed or labeled on it the following notice, which must measure not less than 3 inches long by 1½ inches wide:

FACTORY NO. _____ DISTRICT, STATE OF _____
NOTICE.—The manufacturer of the renovated butter herein contained has complied with all the requirements of the law and regulations authorized thereby. Every person is cautioned not to use again either this package for renovated butter or tax stamp thereon or to remove the contents of this package without destroying said stamp, under penalty provided by law in such cases.

Section 4, Act of May 9, 1902 (32 Stat. 196)

* * * The tax to be levied by this section shall be represented by coupon stamps, and the provisions of existing laws governing engraving, issuing, sale, accountability, effacement, and destruction of stamps relating to tobacco and snuff, as far as applicable, are hereby made to apply to the stamps provided by this section. * * *

ART. 126. STAMPING PACKAGES.—Stamps for the payment of the tax on process or renovated butter are designated "Process Butter" and are issued in sheets of 20 stamps each, in denominations of 10, 20, 30, 40, 50, 60, and 100 pounds. One-pound coupon stamps for use in connection with stamps of the foregoing denominations are issued in sheets of 200 stamps each.

The provisions of article 31 as to ordering, affixing, and canceling stamps, and article 32 as to repacking and restamping oleomargarine, so far as applicable, are hereby extended and made to apply to process or renovated butter.

Section 6, Act of May 9, 1902 (32 Stat. 197)

That wholesale dealers in * * * process, renovated, * * * butter shall keep such books and render such returns

in relation thereto as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may, by regulation, require; and such books shall be open at all times to the inspection of any internal revenue officer or agent. And any person who willfully violates any of the provisions of this section shall for each such offense be fined not less than fifty dollars and not exceeding five hundred dollars, and imprisoned not less than thirty days nor more than six months.

ART. 127. WHOLESALE DEALERS.—(a) *Definition.*—Every person selling process or renovated butter in quantities of 10 pounds or more at one time (not including manufacturers selling only at the registered place of business) is a wholesale dealer in process or renovated butter.

(b) *Dealers exempt from liability.*—A person who sells process or renovated butter is not subject to special tax unless he is a manufacturer of the product.

(c) *Records and returns.*—Wholesale dealers in process or renovated butter shall keep records and render returns corresponding to those required of wholesale dealers in oleomargarine by articles 42 and 43, respectively.

(d) *Other administrative provisions.*—All articles of these regulations relating to wholesale dealers in oleomargarine and adulterated butter are hereby made to apply, so far as applicable, to wholesale dealers in process or renovated butter.

Section 5, Act of May 9, 1902 (32 Stat. 197)

* * * All process or renovated butter and the packages containing the same shall be marked with the words "Renovated Butter" or "Process Butter" and by such other marks, labels, or brands and in such manner as may be prescribed by the Secretary of Agriculture, and no process or renovated butter shall be shipped or transported from its place of manufacture into any other State or Territory or the District of Columbia, or to any foreign country, until it has been marked as provided in this section. The Secretary of Agriculture shall make all needful regulations for carrying this section into effect. * * * Any person, firm, or corporation violating any of the provisions of this section shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars or by imprisonment not less than one month nor more than six months, or by both said punishments, in the discretion of the court.

ART. 128. BRANDING.—(a) *Statutory packages.*—Before removal from the factory each package of process or renovated butter shall have legibly printed or stenciled on one of its sides the legend "Process Butter" or "Renovated Butter"; also the factory number, district, and State; and the net weight, in the following manner:

PROCESS BUTTER

Factory No. 2, 2d Dist., New York
Net Weight, 60 lbs.

The legend "Process Butter" or "Renovated Butter" shall be in bold-face gothic letters not less than three-quarters of an inch square and the other words and figures not less than half an inch square. The color of the legend shall be in strong contrast to that of the package.

(b) *Cartons and wrappers.*—(1) The wrappers, cartons, or other containers in which prints or rolls are placed shall be branded with the legend "Process Butter" or "Renovated Butter", in bold-face gothic letters, not less than three-eighths of an inch square. Such legend shall form a strong contrast to the color of the wrapper or container. No other marks shall be made on the side of the wrapper or container on which the legend is placed.

(2) Each package must show the manufacturer's name and address or the factory number, district, and State, and bear a plain and conspicuous statement of the net weight of contents. Such wrappers, cartons, or other containers shall bear no pictorial or other representation which may create the impression that the article is butter as defined by the Act of Congress of March 4, 1923. (See article 100 (2).)

(c) *Surface impression.*—The top surface of solid-packed goods shall be imprinted with the legend "Process Butter" or "Renovated Butter", in plain gothic letters not less than half an inch square, and impressed at least an eighth of an inch deep. Prints and rolls shall be similarly impressed with letters not less than three-eighths of an inch square. The surface impression may be omitted from prints and rolls of less

than a pound unit weight, provided there is compliance with all other requirements.

(d) *Brands requiring approval.*—With the exception of shipping marks, any marks, brands, or labels, other than those prescribed by these regulations, shall be approved by the Secretary of Agriculture before they are used on packages of process or renovated butter.

(e) *Evidence of approval.*—Approved copies of all marks, brands, or labels shall be retained at the manufacturer's registered place of business, available for inspection by representatives of the Department of Agriculture.

(f) *Penalty for omitting or removing brand.*—Every manufacturer of process or renovated butter who fails to brand the product and the containers in which it is packed is punishable by a fine of not less than \$50 nor more than \$500 or by imprisonment for not less than one month nor more than six months, or both. Every person who removes any such brands from any package of process or renovated butter is punishable by a fine not exceeding \$1,000 or imprisonment not exceeding one year, or both, as provided in section 4, Act of March 3, 1891, made applicable by section 5, Act of May 9, 1902.

Section 8, Food and Drugs Act of June 30, 1906 (34 Stat. 770)

That the term "misbranded", as used herein, shall apply to all drugs, or articles of food, or articles which enter into the composition of food, the package or label of which shall bear any statement, design, or device regarding such article, or the ingredients or substances contained therein which shall be false or misleading in any particular, and to any food or drug product which is falsely branded as to the State, Territory, or country in which it is manufactured or produced. * * *

ART. 129. MISBRANDING UNDER FOOD AND DRUGS ACT.—Misbranding any article of food intended for interstate commerce, or manufactured or offered for sale in any Territory of the United States or the District of Columbia, is prohibited. That for the purposes of this Act an article shall also be deemed to be misbranded:

In the case of food—

(1) If it be an imitation of, or offered for sale under the distinctive name of, another article.

(2) If it be labeled or branded so as to deceive or mislead the purchaser, or purports to be a foreign product when not so, or if the contents of the package, as originally put up, shall have been removed in whole or in part and other contents shall have been placed in such package.

(3) If in package form, the quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of weight, measure, or numerical count.

(4) If the package containing it or its label shall bear any statement, design, or device regarding the ingredients or the substances contained therein, which statement, design, or device shall be false or misleading in any particular.

No provision of these regulations shall be construed so as to relieve any person from compliance with the Federal Food and Drugs Act.

Section 5, Act of May 9, 1902 (32 Stat. 196)

All parts of an Act providing for an inspection of meats for exportation, approved August thirtieth, eighteen hundred and ninety, and of an Act to provide for the inspection of live cattle, hogs, and the carcasses and products thereof which are the subjects of interstate commerce, approved March third, eighteen hundred and ninety-one, and of amendment thereto approved March second, eighteen hundred and ninety-five, which are applicable to the subjects and purposes described in this section shall apply to process or renovated butter. And the Secretary of Agriculture is hereby authorized and required to cause a rigid sanitary inspection to be made, at such times as he may deem proper or necessary, of all factories and storehouses where process or renovated butter is manufactured, packed, or prepared for market, and of the products thereof and materials going into the manufacture of the same. * * * and shall cause to be ascertained and reported from time to time the quantity and quality of process or renovated butter manufactured, and the character and the condition of the material from which it is made. And he shall also have power to ascertain whether or not materials used in the manufacture of said process or renovated butter are deleterious to health or unwholesome in the finished product, and in case such deleterious or unwholesome materials are found to be used in product in-

tended for exportation or shipment into other States or in course of exportation or shipment he shall have power to confiscate the same.

ART. 130. FACTORY INSPECTION.—(a) *Authority to inspect.*—Inspectors of the Department of Agriculture, appointed for the purpose by the Secretary of Agriculture, are authorized to enter all factories and storehouses where process or renovated butter is manufactured, packed, or prepared for market, for the purpose of examination or inspection authorized by this Act.

(b) *Report of condition.*—Periodic inspection of each factory shall be made by such inspectors who will submit a complete report to the Secretary of Agriculture on the sanitation of the premises, the character and condition of the materials used, and the quantity and quality of process or renovated butter produced. The sanitary provisions of the meat inspection Act shall apply to the sanitary inspection of process or renovated butter factories. (See Act of August 10, 1912 (37 Stat. 273).)

(c) *Impure ingredients.*—Process or renovated butter containing any filthy, decomposed, or putrid animal or vegetable substance shall be deemed adulterated under the Food and Drugs Act.

(d) *Deleterious products seizable.*—The Secretary of Agriculture will determine whether or not materials being used in the manufacture of process or renovated butter will be deleterious to health or unwholesome in the finished product. If any materials which have been so determined to be deleterious to health or unwholesome in the finished product are found to be present in any process or renovated butter intended for, or in course of, exportation or shipment in interstate commerce, such process or renovated butter will be confiscated.

Act of May 23, 1908 (35 Stat. 254)

* * * That the Act of March third, eighteen hundred and ninety-one, as amended March second, eighteen hundred and ninety-five, for the inspection of live cattle and products thereof, shall be deemed to include dairy products intended for exportation to any foreign country, and the Secretary of Agriculture may apply, under rules and regulations to be prescribed by him, the provisions of said Act for inspection and certification appropriate for ascertaining the purity and quality of such products, and may cause the same to be so marked, stamped, or labeled as to secure their identity and make known in the markets of foreign countries to which they may be sent from the United States their purity, quality, and grade; and all the provisions of said Act relating to live cattle and products thereof for export shall apply to dairy products so inspected and certified: * * *

ART. 131. EXPORTATION REQUIREMENTS.—(a) *Stamping, branding, covering.*—Original packages of process or renovated butter for export shall be stamped and branded as in the case of packages for domestic use (see articles 126 and 128) and may be covered with cloth, jute, or burlap. The outer covering shall be conspicuously stenciled with the legend "Process Butter" or "Renovated Butter", in bold-face gothic letters not less than an inch square, and the words "For Export Only" on the line beneath, in similar letters not less than three-eighths of an inch square.

(b) *Inspection.*—Process or renovated butter for export shall be examined by inspectors of the Department of Agriculture, who will issue a certificate as to its purity, quality, and grade and the sufficiency of the stamps and brands. If inspection is not made before the outer coverings are placed upon the packages, the exporter may be required to remove them.

ART. 132. REPORTS OF VIOLATIONS.—(a) *By agricultural inspectors.*—Inspectors of the Department of Agriculture who find on the market process or renovated butter, or butter suspected of being processed, renovated, or adulterated, without the required tax stamps and caution notice, will report the matter to the nearest internal-revenue officer. If in doubt as to the character of the product, the inspector should forward samples to the Laboratory Division, Treasury Department, Washington, D. C., for analysis, as provided in article 13 (a).

(b) *By revenue officers.*—Internal-revenue officers who discover on the market process or renovated butter which does

not comply with these regulations will promptly notify the Chief of the Bureau of Dairy Industry, Department of Agriculture, Washington, D. C., as to their findings.

Section 321, United States Revised Statutes

The Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, shall have general superintendence of the assessment and collection of all duties and taxes now or hereafter imposed by any law providing internal revenue; and shall prepare and distribute all the instructions, regulations, directions, forms, blanks, stamps, and other matters pertaining to the assessment and collection of internal revenue: * * *

Section 5, Act of May 9, 1902 (32 Stat. 197)

* * * The Secretary of Agriculture shall make all needful regulations for carrying this section into effect. * * *

ART. 133. AUTHORITY FOR REGULATIONS.—The foregoing regulations relating to process or renovated butter are dual in their scope. The provisions pertaining to internal-revenue matters are under the jurisdiction of the Secretary of the Treasury and those relating to inspection are under the control of the Secretary of Agriculture. The regulations pertaining to internal-revenue matters are made under the authority of section 321, R. S., cited above.

ART. 134. ADMINISTRATIVE JURISDICTION.—The administration of articles 120 to 127 of these regulations, as to process or renovated butter, is under the Commissioner of Internal Revenue, Treasury Department, and the administration of articles 128 to 131 is under the Chief of the Bureau of Dairy Industry, Department of Agriculture, Washington, D. C. Correspondence pertaining to the subject matter of the respective articles should be addressed to the bureau having jurisdiction in the matter.

ART. 135. PROMULGATION OF REGULATIONS.—In accordance with the authority granted by the law, the foregoing regulations relating to process or renovated butter are hereby promulgated.

[SEAL]

GUY T. HELVERING,

Commissioner of Internal Revenue.

Approved as to Treasury Department.

WAYNE C. TAYLOR,

Acting Secretary of the Treasury.

Approved as to Department of Agriculture.

H. A. WALLACE,

Secretary of Agriculture.

[Filed, April 14, 1936; 11:04 a. m.]

Federal Alcohol Administration.

NOTICE OF HEARING WITH REFERENCE TO PROPOSED AMENDMENT TO REGULATION NO. 5, RELATING TO LABELING AND ADVERTISING OF DISTILLED SPIRITS

APRIL 11, 1936.

Pursuant to the provisions of Sections 5 (e) and (f) of the Federal Alcohol Administration Act, approved August 29, 1935:

Notice is hereby given of a public hearing to be held on Monday, April 20, 1936, at 10:00 A. M., at Mayflower Hotel, Connecticut Avenue and De Sales Street, Washington, D. C., with reference to the proposed amendment of Article III, Section 41 (b) (3), and Article VI, Section 64 (a) (7), of Regulations No. 5, Relating to Labeling and Advertising of Distilled Spirits.

It is the purpose of the Federal Alcohol Administration, upon the basis of the evidence submitted at the hearing, to determine whether the aforesaid sections of Regulations No. 5 should be so amended as to authorize distilled spirits of foreign origin to be labeled and advertised in such manner as to indicate that such distilled spirits have been "bottled in bond."

The attention of all parties in interest is directed to the fact that this Notice of Hearing does not in any manner alter the provisions of the labeling and advertising regulations of the Federal Alcohol Administration or extend the effective date of any provision thereof. All importers, distillers, rectifiers, wholesalers and other persons affected by the provisions of the Federal Alcohol Administration Act

are therefore cautioned that all advertising of distilled spirits must conform on and after May 1st, 1936, with the regulations as heretofore issued. No amendment of these regulations can become effective under the law unless and until such amendment is promulgated by the Administrator, with the approval of the Secretary of the Treasury.

[SEAL]

W. S. ALEXANDER, Administrator.

[Filed, April 13, 1936; 1:03 p. m.]

APRIL 9, 1936.

To all Producers, Blenders, and Rectifiers of Wine:

Pursuant to Section 2 (h) of the Federal Alcohol Administration Act, as amended, and to assist the Administrator in the furtherance of his powers and duties under said Act, you are hereby directed to file with this Administration a report containing the information requested on Form FX-68,¹ a copy of which is enclosed herewith.

This report shall be prepared and filed with the Administration not later than April 30, 1936.

Very truly yours,

[SEAL]

W. S. ALEXANDER, Administrator.

[Filed, April 13, 1936; 1:04 p. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

DETERMINATION OF THE SECRETARY OF AGRICULTURE WITH RESPECT TO AN APPROVED ORDER, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE ST. LOUIS, MISSOURI, MARKETING AREA

Whereas, the Secretary of Agriculture, pursuant to Sections 8b and 8c of Title I of the Agricultural Adjustment Act, approved May 12, 1933, as amended, hereinafter called the act, tentatively approved on December 10, 1935, a marketing agreement regulating the handling of milk in the St. Louis, Missouri, marketing area, and on January 30, 1936, issued an order regulating the handling of milk in the St. Louis, Missouri, marketing area, such order becoming effective on and after 12:01 a. m., c. s. t., February 1, 1936; and

Whereas, the Secretary, having reasons to believe that an amendment should be made to said tentatively approved marketing agreement and said approved order, gave, on the 12th day of March 1936, notice of a hearing to be held on the 16th day of March 1936 at St. Louis, Missouri, on a proposed amendment to said tentatively approved marketing agreement and said approved order, and at said time and place conducted a public hearing at which all interested parties were afforded an opportunity to be heard on the proposed amendment to said tentatively approved marketing agreement and said approved order; and

Whereas, after such hearing and after the approval by the Secretary, on the 30th day of March 1936, of an amendment to the aforementioned tentatively approved marketing agreement, handlers of more than 50 per centum of the volume of milk covered by the aforementioned approved order and the proposed amendment thereto, which is produced or marketed within the St. Louis, Missouri, marketing area, refused or failed to sign such tentatively approved marketing agreement, as amended, relating to milk;

NOW, THEREFORE, the Secretary of Agriculture, by virtue of the authority vested in him by the act, hereby determines:

1. That the refusal or failure of said handlers to sign the said tentatively approved marketing agreement, as amended, tends to prevent the effectuation of the declared policy to establish and maintain such marketing conditions in the handling of milk in the aforesaid area as will reestablish prices of milk to producers of milk in said area at a level that will give such milk a purchasing power with respect to

¹ [Form FX-68, report of the production and distribution of champagne, was filed with the Division of the Federal Register; copies are available upon application to the Federal Alcohol Administration, Treasury Department.]

articles that such producers buy equivalent to the purchasing power of such milk in the base period, August 1919-July 1929; and

2. That the issuance of the amendment to such approved order is the only practical means, pursuant to such policy, of advancing the interests of producers of milk in said area; and

3. That the issuance of the amendment to such approved order is approved or favored by over seventy (70) per centum of the producers who, during the month of February 1936, said month being here and now determined by the Secretary to be a representative period, have been engaged in the production of milk for sale in the said area.

In witness whereof, I, H. A. Wallace, Secretary of Agriculture, have executed this determination and have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed, in the city of Washington, District of Columbia, this 7th day of April 1936.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

Approved:

FRANKLIN D. ROOSEVELT,
The President of the United States.

Dated, April 9, 1936.

[Filed, April 14, 1936; 12:34 p. m.]

AMENDMENT TO ORDER NO. 3, REGULATING THE HANDLING OF MILK IN THE ST. LOUIS, MISSOURI, MARKETING AREA

Whereas, pursuant to Title I of the Agricultural Adjustment Act, approved May 12, 1933, as amended, hereinafter called the "act", the Secretary of Agriculture, hereinafter called the "Secretary", on December 10, 1935, tentatively approved a Marketing Agreement Regulating the Handling of Milk in the St. Louis, Missouri, Marketing Area; and

Whereas, on January 30, 1936, the Secretary issued order No. 3, regulating the handling of milk in the St. Louis, Missouri, Marketing Area, said order being effective 12:01 a. m. c. s. t., February 1, 1936; and

Whereas, the Secretary, having reason to believe that an amendment should be made to said tentatively approved marketing agreement and said approved order, gave, on the 12th day of March 1936, notice of a hearing to be held on the 16th day of March 1936, at St. Louis, Missouri, on a proposed amendment to said tentatively approved marketing agreement and said approved order, and at said time and place conducted a public hearing at which all interested parties were afforded an opportunity to be heard on the proposed amendment to said tentatively approved marketing agreement and said approved order; and

Whereas, after such hearing and after the approval, on the 30th day of March 1936, by the Secretary of an amendment to said tentatively approved marketing agreement, handlers of more than 50 per centum of the volume of milk covered by such order, as amended, which is marketed within the St. Louis, Missouri, Marketing Area, refused or failed to sign such tentatively approved marketing agreement, as amended, relating to milk; and

Whereas, the Secretary determined on the 7th day of April 1936, said determination being approved by the President of the United States on the 9th day of April 1936, that said refusal or failure tends to prevent the effectuation of the declared policy to establish and maintain such marketing conditions in the handling of milk in the aforesaid area as would reestablish prices of milk to producers of milk in said area at a level that would give such milk a purchasing power with respect to articles that such producers buy equivalent to the purchasing power of such milk in the base period, August 1919-July 1929, and that the issuance of this amendment to said order is the only practical means, pursuant to such policy, of advancing the interests of producers of milk in said area and is approved or favored by over seventy per centum of the producers who, during the month of February 1936, said month being determined by the Secretary to be a representative period, have been engaged

in the production of milk for sale in the St. Louis, Missouri, Marketing Area; and

Whereas, the Secretary finds, upon the evidence introduced at the hearing on such proposed amendment, said findings being in addition to the findings made upon the evidence introduced at the hearing on said order:

1. That the St. Louis, Missouri, Marketing Area, as herein redefined in terms of presently existing townships to eliminate territory no longer necessary to be included, is the smallest area practicable for the application of the order, as amended;

2. That the prices set forth in the order, as amended, will, over a period of time, tend to give milk marketed in the said marketing area a purchasing power, with respect to articles that producers buy, equivalent to, but not above, the purchasing power of such milk in the base period;

3. That the order, as amended, regulates the handling of milk in the same manner as, and is applicable only to handlers specified in the tentatively approved marketing agreement, as amended, upon which hearings have been held; and

4. That the issuance of the amendment to the order and all the terms and conditions of the order, as amended, will tend to effectuate the declared policy to establish and maintain such marketing conditions in the handling of milk in the aforesaid area as will reestablish prices of milk to producers of milk in said area at a level that will give such milk a purchasing power with respect to articles that such producers buy equivalent to the purchasing power of milk in the base period, August 1919-July 1929;

Now, therefore, the Secretary of Agriculture, pursuant to the authority vested in him by the act, hereby orders that order No. 3, regulating the handling of milk in the St. Louis, Missouri, Marketing Area, issued by the Secretary on January 30, 1936, be and it is hereby amended as follows:

1. Paragraph 3 of section 1 of article I of the order shall be deleted from the order and the following shall be substituted therefor:

3. "St. Louis Marketing Area", hereinafter called the "Marketing Area", means the territory within the corporate limits of the cities of St. Louis, Kirkwood, and Valley Park, Missouri, and the territory within St. Ferdinand, Normandy, Clayton, Jefferson, and Carondelet townships in St. Louis County, Missouri; Chouteau, Venice, Nameoki, Granite City, and Collinsville townships in Madison County, Illinois; and Stites, Canteen, Caseyville, East St. Louis, Centerville, Belleville, St. Clair, Sugar Loaf, and Stookey townships in St. Clair County, Illinois.

2. Sections 3 and 4 of article IV of the order shall be renumbered as sections 4 and 5, respectively, and the following shall be added as section 3 of article IV of the order:

SEC. 3. *Spring Price Change*.—The prices set forth in section 1 of this article and in paragraphs 1 and 2 of section 2 of this article shall, for 90 days following the effective date hereof, and for the months of April, May, and June of each year after 1936, be reduced by 10 cents per hundredweight.

In witness whereof, H. A. Wallace, Secretary of Agriculture, acting under the provisions of the Agricultural Adjustment Act, approved May 12, 1933, as amended, does hereby execute in duplicate and issue this amendment to the order regulating the handling of milk in the St. Louis, Missouri, Marketing Area, issued on the 30th day of January 1936 in the city of Washington, District of Columbia, on the 13th day of April 1936 and, pursuant to the provisions hereof, declares this amendment to the said order to be effective on and after 12:01 a. m., c. s. t., April 17th, 1936.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

[Filed, April 14, 1936; 12:34 p. m.]

Bureau of Animal Industry.

AMENDMENT 5 TO B. A. I. ORDER 350, REGULATIONS GOVERNING THE RECOGNITION OF BREEDS AND PUREBRED ANIMALS, MODIFYING PARAGRAPH 1, SECTION 3, REGULATION 2, RECOGNIZING BREEDS AND BOOKS OF RECORD ACROSS THE SEAS

[Effective on and after April 10, 1936]

Under the authority conferred by law upon the Secretary of Agriculture, Paragraph 1, Section 3, Regulation 2, of the

regulations governing the recognition of breeds and pure-bred animals (B. A. I. Order 350) effective on and after July 1, 1935, is hereby amended by the withdrawal of the following studbook:

"Mare-Complement to Ostpreussischen Stutbuchs für Warmblut Trakehner Abstammung" published by Ostpreussische Stutbuchgesellschaft, Dr. W. Schilke, Secretary, Hindenburgstr. 85, Insterburg, Germany.

Done at Washington this 14th day of April, 1936.

Witness my hand and the seal of the Department of Agriculture.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

[Filed, April 14, 1936; 12:33 p. m.]

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 11th day of April, A. D. 1936.

Commissioners: Charles H. March, Chairman; Garland S. Ferguson, Jr., Ewin L. Davis, William A. Ayres, Robert E. Freer.

Docket No. 2513

IN THE MATTER OF HARRY NEIVERT, AN INDIVIDUAL DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF PIGRO CHAMMOIS COMPANY

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony.

It is ordered that William C. Reeves, an examiner of this Commission, be appointed and he is hereby designated to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law.

It is further ordered that the taking of testimony in this proceeding begin on Tuesday, April 21, 1936, at ten o'clock in the forenoon of that day, in room 424, Federal Trade

Commission Building, 815 Connecticut Avenue NW., Washington, D. C.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL]

OTIS B. JOHNSON, Secretary.

[Filed, April 14, 1936; 10:35 a. m.]

INTERSTATE COMMERCE COMMISSION.

ORDER

At a Session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 2nd day of April, A. D. 1936.

No. 15780

DEPRECIATION CHARGES OF CARRIERS BY WATER

Good cause appearing therefor:

It is ordered, That the order of August 1, 1935, in this proceeding be, and it is hereby, amended as follows:

(a) By adding a second proviso to paragraph (6) thereof as follows:

Provided further, That until such time as specific rates are prescribed by the Commission, carriers by water shall develop and apply depreciation rates in conformity with the method outlined in this order.

(b) By changing the latest date upon which carriers by water shall file with the Commission estimates of percentage rates, as provided in paragraph (7) thereof, from September 1, 1936, to August 1, 1937.

It is further ordered, That in all other respects the said order of August 1, 1935, shall become effective on January 1, 1937, as provided therein.

By the Commission, division 4.

[SEAL]

GEORGE B. MCGINTY, Secretary.

[Filed, April 13, 1936; 3:07 p. m.]